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Montana

Workers' Compensation

1998 Annual Report

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HELENA, MONTANA 59624-1728

June 1999

Dear Governor, Legislators and Citizens of Montana:

It is my privilege to present to you the *Montana Workers' Compensation 1998 Annual Report*.

This report shows the continuing evolution toward our goal of providing needed, valuable information to the participants of the Workers' Compensation industry. As we continue to collect each year's data, the depth and breadth of available information allows for better trend analysis and predictions. In addition, we want our report to become a handbook for anyone wanting to understand workers' compensation in Montana.

If there is a single, most valuable outcome from our communal data-gathering efforts, I believe it is the ability to have a commonly understood baseline. While there is plenty of room for varying opinions about future directions for workers' compensation, knowing what the baseline is can only benefit the process. The Department of Labor and Industry is proud to provide that service to Montana.

As in years past, I want to recognize the efforts of those who contribute the data for the Workers' Compensation Data Base. We greatly appreciate your efforts to share with us the accurate, timely data needed for proper management of the workers' compensation system.

I am asking that our readers continue to share your suggestions with us so that we can continue to improve our report and its value to the Montana Workers' Compensation System.

Sincerely,

A handwritten signature in cursive script that reads "Pat Haffey".

Pat Haffey
Commissioner

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Executive Summary

Listed below are the highlights found in the 1998 Montana Workers' Compensation Annual Report, by the Employment Relations Division (ERD) of the Department of Labor & Industry (Department). This report contains information about Montana's workers' compensation system, injury statistics and characteristics, benefits paid to claimants and payments made by insurers to others in the system, dispute resolution, and miscellaneous regulatory programs and functions.

Claims Statistics.....9-17

There were 31,526 claims reported in FY98 compared with 33,742 reported in FY97. This is a decrease of 6.6% from FY97. The number of claims reported by the State Fund decreased 6.1%, claims reported by private carriers increased 5% and claims reported by self-insurers remained fixed.

The service industry was responsible for 28.1% of all claims reported in FY98. This is a decrease of 2.4% from FY97. Retail trade had the second largest percentage of claims, 14.4%.

From FY96 to date, the percentage of males has held steady at approximately two-thirds of all cases reported. In other words, for every claim filed by a female, approximately two were filed by males.

The typical injured worker is male, 35-45 years of age, employed in a service industry from 2-5 years, and suffering a strain or sprain to an upper extremity.

Benefits21-28

The declining trend in total indemnity (wage loss) and medical benefits paid by all insurers represents the effect of cost containment methods, early return to work strategies, and the reduction in benefits implemented by the Legislature.

Comparing total indemnity and medical benefit payments in FY96 with payments in FY98 shows a decrease of approximately \$12,755,883, or 8.62%.

The upward trend in both indemnity and medical benefit payments by private carriers, compared to the downward trend in the same payments by the State Fund, is another indication of the changes occurring in the market share between Plans 2 and 3.

The payment information reported to the Department on subsequent reports is for indemnity claims only. The date of injury, and average payment and duration by benefit type are calculated to present a comparison between the benefits over time. This year's presentation contains data from claims closed during one year. The Department cautions readers against making comparisons or reaching conclusions based solely on this data. For example, the average temporary total disability payment on a FY96 injury represents up to 2 years of payments versus the average payment on a FY98 injury that represents less than one year of payments. In the coming years, with the continued collection of this data, comparisons made and conclusions reached will reveal a more complete picture.

Average settlement amounts have been decreasing since 1987, corresponding to legislative reductions in benefits to injured workers.

In FY98 attorneys represented 2.3% of all claims reported, but attorneys represented 57% of all claims settled in FY98.

Dispute Resolution.....31-35

In FY98, the department received 423 occupational disease panel requests. Panel requests have increased 9.5% since FY96. It takes an average of 100 days to complete the panel process.

The number of mediation petitions received in FY98 rose 6.1% from FY97. Mediation continues to resolve approximately 78% of its cases. On average, in FY98, mediation took 33 days to complete a case for which a conference was held and a written recommendation issued.

Contested Case Hearings received 114 petitions in FY98. This is a decrease of 9.6% from FY97. Contested Case Hearings closed or settled 71 petitions in FY98.

The Workers' Compensation Court received 235 petitions, 11 appeals from Department orders, dismissed 155 petitions, held 61 trials, and issued 125 decisions in FY98.

Cost of Regulatory Functions.....40

The cost of administering the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to the Plan 1, Plan 2, and Plan 3 insurers. The cost of the regulatory functions in FY98 was \$3,816,458. This is \$134,693 under the budgeted amount. Beginning in FY2000, a new process will be instituted (*see page 40*) and each insurer will be assessed 3% of benefits paid.

Subsequent Injury Fund.....41

Subsequent Injury Fund (SIF) payments in FY98 for all dates of injury were \$237,188. Plan 1 paid less into the SIF assessment than the other plans over the three-year period of FY96, FY97 & FY98, because it has paid less indemnity benefits. At the same time, it reported more SIF claims and received higher reimbursement than the other two plans combined.

There were 193 new SIF certifications during FY98 resulting in a total of 2,330 certified employees in the state of Montana.

Uninsured Employers Fund (UEF).....42-43

Over \$4,074,000 in penalties were assessed against uninsured employers in FY98. Approximately \$1,755,694 in penalties was collected by the UEF unit in FY98 compared with collections in FY97 of \$1,606,177. The increase is due to more aggressive collection efforts.

In FY98, the UEF unit received 156 new claims. The UEF unit paid injured workers a total of \$834,430 in medical and wage loss benefits in FY98.

Safety.....44-45

The Safety Bureau completed 169 mandatory inspections of public employers and 175 on-site inspections of private employers. There were 79 coal mining inspections performed and 192 metal/nonmetal-mining inspections.

The number of formal training sessions conducted by the Bureau, in FY98, almost doubled from FY96. The number of public sector workers trained has risen from 618 in FY96 to 1,797 in FY98. This is a 66% increase. The number of private sector workers trained has risen from 660 in FY96 to 1,236 in FY98 - an increase of 47%.

Independent Contractor Exemptions.....46

In FY98 there were 5,185 new independent contractor exemptions issued, 4,838 renewals, and a total of 14,796 active independent contractors. The construction industry accounted for approximately 53% of all independent contractors.

Independent contractor exemption requirements are separate and distinctly different from construction contractor registration requirements:

An individual who meets the definition of an independent contractor may apply for an exemption from obtaining workers' compensation insurance coverage as an individual.

The purpose of construction contractor registration is to ensure all construction contractors are competing fairly by complying with state laws on workers' compensation, unemployment insurance and employer taxes. The construction contractor must provide proof of workers' compensation coverage or an independent contractor exemption to obtain the construction registration. The construction contractor registration law became effective July 1, 1995.

Professional Employer Organizations (PEOs).....47

In order to become licensed as a PEO, an application must be submitted which includes proof of workers' compensation coverage. Since the law became effective 7/1/95, the department has licensed 15 PEOs, who have contracted with 295 clients. An additional 15 applications are being processed.

Montana's Workers' Compensation System . . .

Declaration of Public Policy

Insurance - Who's Covered, Who's Not

***How is Montana's Workers' Compensation System
Administered?***

Montana Workers' Compensation Market

Governor's Workers' Compensation Advisory Council

Declaration of Public Policy¹

It is an objective of the Montana workers' compensation system to provide, without regard to fault, wage supplement and medical benefits to a worker suffering from a work-related injury or disease. Wage-loss benefits are not intended to make an injured worker whole, they are intended to assist the injured worker at a reasonable cost to the employer. Within that limitation, the wage-loss benefit should bear a reasonable relationship to actual wages lost as a result of a work-related injury or disease.

A worker's removal from the work force due to a work-related injury or disease has a negative impact on the injured worker, the injured worker's family, the employer, and the general public. Therefore, it is an objective of the workers' compensation system to return an injured worker to work as soon as possible after the worker has suffered a work-related injury or disease.

Montana's workers' compensation and occupational disease insurance systems are intended to be primarily self-administering. Claimants should be able to speedily obtain benefits, and employers should be able to provide coverage at reasonably constant rates. To meet these objectives, the system must be designed to minimize reliance upon lawyers and the courts to obtain benefits and interpret liabilities.

Title 39, chapters 71 and 72 (Workers' Compensation Act and the Occupational Disease Act), must be construed according to their terms and not liberally in favor of any party.

It is the intent of the legislature that stress claims, often referred to as "mental-mental claims" and "mental-physical claims", are not compensable under Montana's workers' compensation and occupational disease laws. The legislature recognizes that these claims are difficult to objectively verify and that the claims have a potential to place an economic burden on the workers' compensation and occupational disease system. The legislature also recognizes that there are other states that do not provide compensation for various categories of stress claims and that stress claims have presented economic problems for certain other jurisdictions. In addition, not all injuries are compensable under the present system, as is the case with repetitive injury claims, and it is within the legislature's authority to define the limits of the workers' compensation and occupational disease system.

¹ MCA 39-71-105

Insurance - Who's Covered, Who's Not

If you are an employer or an employee, the Workers' Compensation Act applies to you. An employer who has an employee in service under any appointment or contract of hire, expressed or implied, oral or written, must elect to be bound by the provisions of compensation Plan 1 (self-insured), Plan 2 (privately insured), or Plan 3 (State Fund).

Employment Exempted²

The Workers' Compensation Act and the Occupational Disease Act do not apply to any of the following employments:

- ◆ Household and domestic employment
- ◆ Casual employment
- ◆ Dependent member of an employer's family for whom an exemption may be claimed by the employer under the federal Internal Revenue Code
- ◆ Sole proprietors, working members of a partnership, working members of a limited liability partnership, or working members of a member-managed limited liability company
- ◆ Broker or salesperson performing under a license issued by the Board of Realty
- ◆ A direct seller
- ◆ Employment for which a rule of liability for injury, occupational disease, or death is provided under the laws of the United States
- ◆ A person performing services in return for aid or sustenance only
- ◆ Volunteers
- ◆ Employment with a railroad engaged in interstate commerce
- ◆ An official, including a timer, referee, or judge, at a school amateur athletic event
- ◆ A person performing services as a newspaper carrier or freelance correspondent
- ◆ Cosmetologist's services and barber's services
- ◆ A person who is employed by an enrolled tribal member or an association, business, corporation, or other entity that is at least 51% owned by an enrolled tribal member or members, whose business is conducted solely within the reservation
- ◆ A jockey who is performing under a license issued by the Board of Horse Racing
- ◆ An employer's spouse
- ◆ A petroleum land professional
- ◆ An officer of a quasi-public or a private corporation or manager of a manager-managed limited liability company
- ◆ A person who is an officer or a manager of a ditch company
- ◆ Service performed by an ordained, commissioned, or licensed minister of a church
- ◆ Independent Contractors

² MCA 39-71-401

How is Montana's Workers' Compensation System Administered?

The Employment Relations Division provides a wide variety of services and regulation related to workers' compensation and safety.

Workers' Compensation Regulation Bureau

The **Contractor Registration Unit** ensures the business has workers' compensation insurance. The law provides protection from liability for workers' compensation claims for contractors who use the service of other construction contractors.

The **Uninsured Employers Fund Unit** ensures employers and employees are protected under the Workers' Compensation and Occupational Disease Acts. The Unit enforces coverage requirements for all employers, pays benefits to injured workers whose employers did not have workers' compensation coverage, and manages the fund from which benefits are paid.

The **Subsequent Injury Fund Unit** administers the funds that are used to offset claim costs associated with injuries to workers with disabilities. This reduces claim liability and provides an incentive for employers to hire certified workers.

The **Medical Regulations Unit** administers a program that provides an effective and equitable method of health care cost containment. Medical fee schedules are established by the unit and utilized by the insurers to reimburse medical providers.

The **Carrier Compliance Unit** monitors compliance of private workers compensation carriers. The unit also licenses professional employer organizations and processes extraterritorial agreements.

The **Independent Contractor Central Unit** issues decisions on employment relationships for the Department of Revenue, Labor Standards, Unemployment Insurance, and Workers' Compensation Compliance. The unit also issues Independent Contractor (IC) Exemptions.

Claims Assistance Bureau

The **Claims Unit** ensures compliance with the workers' compensation and occupational disease laws relating to benefits and claims. The unit also regulates attorney fees, administers the occupational disease panel process, and provides assistance to insurers, attorneys and injured workers.

The **Data Management Unit** enters data on new claims, tracks policy coverage, maintains the workers' compensation database system and provides a comprehensive annual report on workers' compensation to the governor and the legislature.

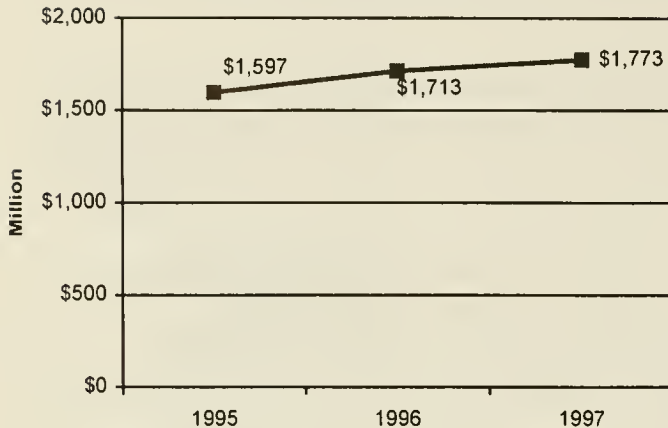
The **Mediation Unit** provides an alternative method of resolving workers' compensation benefit disputes before the dispute goes to the Workers' Compensation Court. This is a mandatory non-binding process.

Safety Bureau

The Safety Bureau conducts inspections of public employers, performs on-site consultations for private employers and inspects coal mines and sand and gravel operations throughout the state. The Bureau provides safety and occupational health training for both public and private employers.

Montana Workers' Compensation Market

**Gross Annual Payroll
Plan 1 - by Calendar Year**

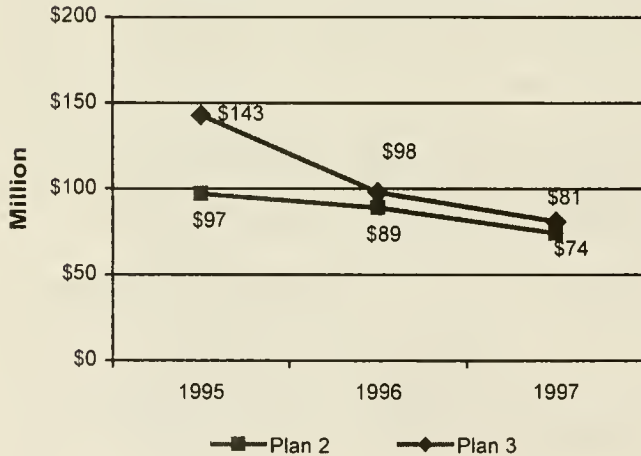


Plan 1 employers pay no premium.

Montana employers have several options for obtaining workers' compensation coverage for their employees. Employers with sufficient cash reserves may qualify as individual self-insured (Plan 1) by applying to the Employment Relations Division, or employers may choose to join with other employers in their industry to form a self-insured group. Currently, Montana has 51 individual self-insurers and 8 self-insured groups (4 public and 4 private).

All other employers may opt for coverage with private insurance companies (Plan 2) in the "voluntary market". Montana has 318 private insurance companies licensed to write workers' compensation insurance.

**Premium Dollars
Plan 2 & 3 - By Calendar Year**



Employers may obtain coverage through the State Compensation Mutual Insurance Fund (State Fund). The State Fund (Plan 3) is the insurer of last resort, and represents approximately 35% of the current workers' compensation market. The change in Montana's market share is reflected in the following table.

**Distribution of Market Share
By Plan & Fiscal Year**

Calendar Year	1995	1996	1997
Plan 1 - Payroll	\$1,597,336,997	\$1,713,291,665	\$1,773,148,488
Plan 2 - Premium	\$97,572,966	\$89,893,661	\$74,615,961
Plan 3 - Premium	\$143,275,000	\$98,270,000	\$81,057,000

Governor's Workers' Compensation Advisory Council

On July 24, 1997, Governor Mark Racicot appointed nineteen individuals to the Workers' Compensation Regulation Advisory Council. Representing a broad cross-section of system participants, the council members were charged with reviewing the workers' compensation regulation system and recommending what the mission and goals of that system should be.

Beginning in October of 1997 the Council reviewed the current functions of Montana's regulatory system, heard presentations from other states thought to have effective regulatory systems and discussed ideas for system improvement. The Council concluded its work and met with Governor Racicot on October 16, 1998 to present the Council's final report. The report contained 26 recommendations for changes to the workers' compensation regulatory system for the Governor's consideration. The Governor expressed his appreciation for the Council's work and took their recommendations under advisement for potential development during the 1999 legislative session or for possible action by the Department and future legislative sessions.

The recommendations generated by the Council are:

- The statutory requirement for insurers to submit quarterly expenditure reports should be repealed.
- Change the due date of the annual report of total compensation and total medical benefits paid from March 31 to January 31. Also, insurers should be required to submit a quarterly breakdown of benefit payments be included on the annual report.
- The Subsequent Injury Fund should pay up to \$2,500 to an employer for work-site modifications that allow a certified worker to return to the time-of- injury or a new position.
- The Subsequent Injury Fund should reimburse insurers for all benefit paid to certified workers after the first 26 weeks of wage and medical payments including rehabilitation benefits.
- The department should refer Subsequent Injury Fund certified workers to DPHHS for assistance.
- The department should continue to make educational efforts related to the workers' compensation process available to all parties in the system (employers, injured workers, insurers, providers) on a request basis. Educational forums conducted by the department may be accomplished by conducting seminars to interested participants.
- The department should obtain a toll free number for injured workers to use to obtain information about the workers' compensation system. In all cases, the department should first ensure that the caller has been in contact with the insurer or manager of the claim. The department should provide general information about the workers' compensation

process and should refer questions related to coverage or specific benefit questions to the appropriate insurer. The department should advise injured workers about the dispute resolution process.

- The department should provide an Employer Advisor and an Employee Advisor to be the contact for their respective groups, and to be a neutral but well-informed party to answer questions and give advice on a timely basis on how workers' compensation issues could be resolved.
- The Montana Workers' Compensation Adjuster Association should develop a certification and training program for workers' compensation adjusters and bring this recommendation to the 1999 legislature.
- Insurers should be required to administer all workers' compensation claims in-state and include a penalty for failure to do so, up to and including termination of insurance privileges (including self-insurance privilege) for repeated failures.
- The Employee Posting Notice should be revised to emphasize where to report claims and the availability of a toll free number to contact the department to obtain independent neutral information about the worker's compensation system. The department should publicize that it is available to assist employees and employers with their workers' compensation questions.
- Employers, other than plan No. 1 individual self-insured employers, who pay medical bills and or wage loss benefits directly in the event of an employee injury, should be subject to a fine of up to \$200.
- Professional Employer Organizations should not be allowed to operate while they are appealing a denial of their application for licensure.
- Workers' compensation insurers of Professional Employer Organizations should be required to issue separate policy numbers for every client company.
- The fee charged for licensing Professional Employer Organization applications should be commensurate with the actual cost of processing.
- A statutory amendment should be made to the PEO laws to require the PEO to provide a disclosure notice to client companies.
- The department should either employ additional field investigators or use private auditors to improve employer compliance with workers' compensation coverage requirements.
- The HJR10 committee is recommending that occupational disease orders be mediated rather than go to Contested Case Hearings. If this recommendation is adopted, then the department's role in 39-72-602, MCA, should be modified to include only the scheduling of medical examinations, the distribution of the medical reports and preparing a recommendation.

- The Safety Bureau should review its current utilization of staff to ensure they are being utilized appropriately. If staff can not be reassigned, an additional compliance position should be added to enhance safety enforcement efforts.
- The Safety Bureau should identify "repeat offenders" and make examples of them by calling them to a hearing and reporting them in the press.
- The Department should adopt the OSHA penalty schedule for safety violations with the money collected in fines going to the general fund or to offset the assessment funding for the Safety Bureau.
- At a minimum, one additional full-time training officer should be added to the Safety Bureau.
- The wording in 50-73-410, MCA, (Safety in Coal Mines) should be changed to read: "when advised by any person of any accident in a coal mine involving loss of life or serious personal injury..."
- The Safety Bureau should adopt requirements for compliance with the Safety Culture Act, and cite violations during routine mandatory inspections of public sector entities.
- The department's database system should be enhanced by providing research staff to analyze the data currently being collected. Also, expand the data being collected to include medical information.
- Section 39-71-201, MCA should be amended to remove the 2.6% assessment cap. The legislature should determine the appropriate funding level through the appropriations process.

The governor thanked the council member for the balanced recommendations they put forth. Then demonstrated a commitment to maintaining healthy workers as well as a healthy workers' compensation system.

Claims Statistics . . .

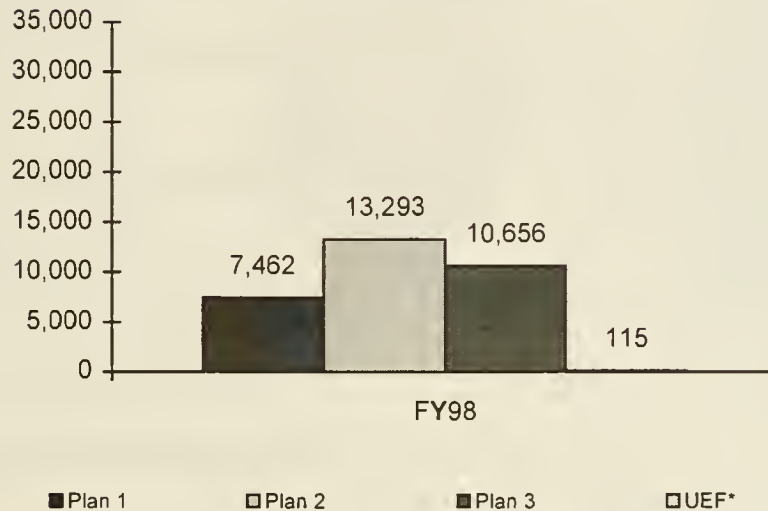
Comparison of Claims by Plan Type

Injured Worker Characteristics

Insurer Denial of Claims

Comparison of Claims by Plan Type

**Distribution of Reported Claims
By Plan Type - FY98**



Notes:

The number of total claims is continually changing.

*UEF means Uninsured Employers Fund.

FY means Fiscal Year, the period of time between July 1 and the succeeding June 30.

**Distribution of Reported Claims
By Plan Type**

Plan Type	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Plan 1	6,661	20.4%	7,983	23.6%	7,462	23.7%
Plan 2	10,594	32.4%	12,174	36.1%	13,293	42.1%
Plan 3	15,330	46.8%	13,459	39.9%	10,656	33.8%
UEF	143	0.4%	126	0.4%	115	0.4%
Total	32,728	100%	33,742	100%	31,526	100%

Notes:

UEF means Uninsured Employers Fund.

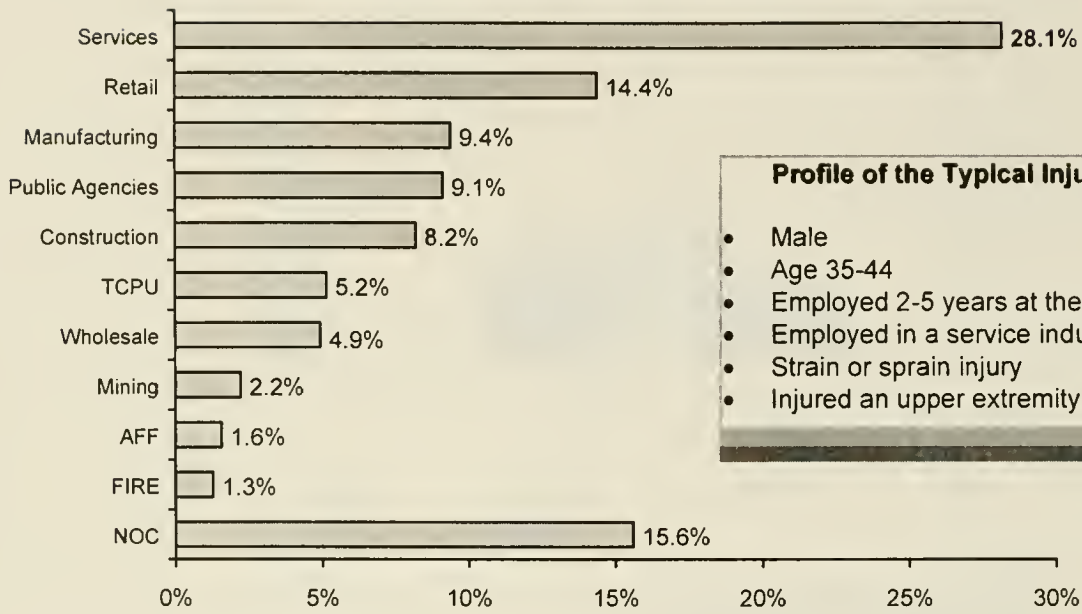
FY means Fiscal Year, the period of time between July 1 and the succeeding June 30.

- The number of reported claims is continually changing. Therefore, this report shows the most current quantitative description available on the status of the Montana workers' compensation system.

Injured Worker Characteristics

Percent Distribution of Claims By Standard Industrial Classification¹

Date of Injury - FY98



Profile of the Typical Injured Worker

- Male
- Age 35-44
- Employed 2-5 years at the time of injury
- Employed in a service industry
- Strain or sprain injury
- Injured an upper extremity

Notes:

TCPU means Transportation, Communication & Public Utilities.

AFF means Agriculture, Forestry & Fishing.

FIRE means Finance, Insurance & Real Estate.

NOC means Not Otherwise Classified.

¹Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

Rank-Order Distribution of Claims By Standard Industrial Classification Major Groups

Standard Industrial Classification ¹	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Services	8,895	27.2%	10,301	30.5%	8,872	28.1%
Retail	5,848	17.9%	5,092	15.1%	4,528	14.4%
Manufacturing	3,362	10.2%	3,260	9.7%	2,957	9.4%
Public Agencies	2,904	8.9%	3,111	9.2%	2,875	9.1%
Construction	2,560	7.8%	2,376	7.0%	2,585	8.2%
Transportation, Communication & Public Utilities	1,555	4.8%	1,746	5.2%	1,625	5.2%
Wholesale	1,839	5.6%	1,773	5.2%	1,560	4.9%
Mining	862	2.6%	865	2.6%	705	2.2%
Agriculture, Forestry & Fishing	572	1.7%	528	1.6%	497	1.6%
Finance, Insurance & Real Estate	451	1.4%	472	1.4%	406	1.3%
All Other Specific Claims, NOC	3,880	11.9%	4,218	12.5%	4,916	15.6%
Total	32,728	100%	33,742	100%	31,526	100%

Notes:

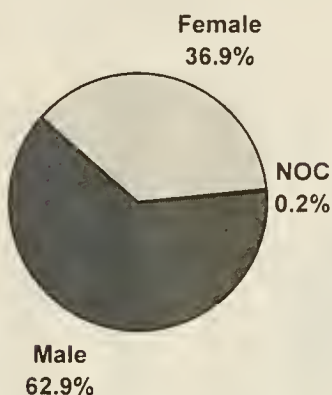
*Column may not sum 100% due to rounding.

NOC means Not Otherwise Classified.

¹Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

Percent Distribution of Claims By Gender

Date of Injury - FY98



Notes: NOC means Not Otherwise Classified.

Distribution of Reported Claims By Gender

Gender	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Female	11,740	35.9%	12,645	37.5%	11,639	36.9%
Male	20,790	63.5%	20,971	62.2%	19,820	62.9%
All Other Claims, NOC	198	0.6%	126	0.4%	67	0.2%
Total	32,728	100%*	33,742	100%*	31,526	100%*

Notes:

*Columns may not sum 100% due to rounding.

NOC means Not Otherwise Classified.

Standard Industrial Classification by Gender

Date of Injury - FY98

Standard Industrial Classification ¹	Female		Male		Row Totals	
	Count	Percent	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing	88	0.3%	409	1.3%	497	1.6%
Mining	22	0.1%	682	2.2%	704	2.2%
Construction	87	0.3%	2,494	7.9%	2,581	8.2%
Manufacturing	511	1.6%	2,442	7.7%	2,953	9.4%
Transportation, Communication & Public Utilities	216	0.7%	1,408	4.5%	1,624	5.2%
Wholesale Trade	244	0.8%	1,314	4.2%	1,558	4.9%
Retail Trade	2,035	6.5%	2,480	7.9%	4,515	14.4%
Finance, Insurance & Real Estate	246	0.8%	158	0.5%	404	1.3%
Services	5,521	17.5%	3,322	10.5%	8,843	28.0%
Public Administration	1,190	3.8%	1,683	5.3%	2,873	9.1%
NOC SIC codes	1,479	4.7%	3,428	10.9%	4,907	15.6%
NOC Gender codes	0	0%	0	0%	67	0.2%
Total	11,639	37.1%	19,820	62.9%	31,526	100%*

Notes:

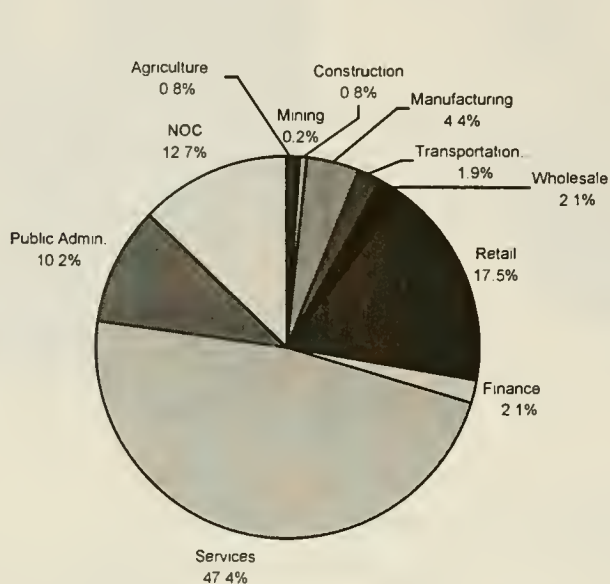
*Columns may not sum 100% due to rounding.

¹Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

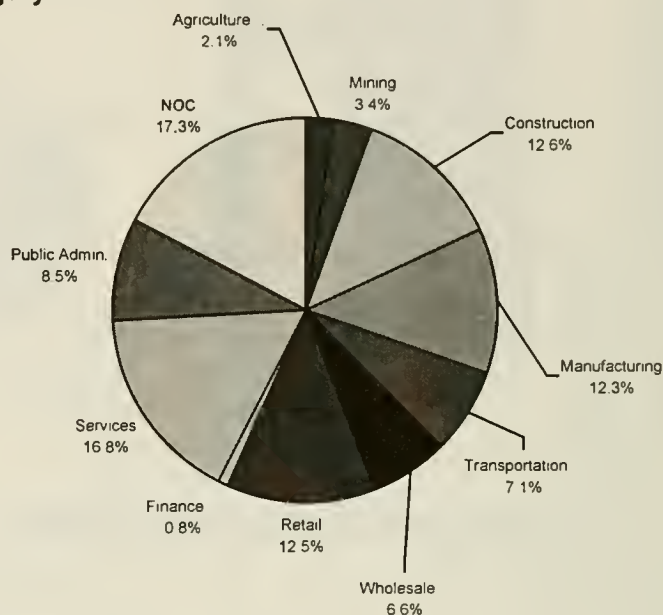
NOC means Not Otherwise Classified.

Distribution of Claims by Gender For all Standard Industrial Classification Categories

Date of Injury - FY98



Female



Male

Notes: NOC means Not Otherwise Classified.

Distribution of Claims by Gender For all Standard Industrial Classification Categories Date of Injury - FY98

Standard Industrial Classification	Female		Male	
	Count	Percent	Count	Percent
Agriculture, Forestry & Fishing	88	0.8%	409	2.1%
Mining	22	0.2%	682	3.4%
Construction	87	0.8%	2,494	12.6%
Manufacturing	511	4.4%	2,442	12.3%
Transportation, Communication & Public Utilities	216	1.9%	1,408	7.1%
Wholesale Trade	244	2.1%	1,314	6.6%
Retail Trade	2,035	17.5%	2,480	12.5%
Finance, Insurance & Real Estate	246	2.1%	158	0.8%
Services	5,521	47.4%	3,322	16.8%
Public Administration	1,190	10.2%	1,683	8.5%
NOC SIC codes	1,479	12.7%	3,428	17.3%
Total	11,639	100%*	19,820	100%*

Notes:

* Columns may not sum 100% due to rounding.

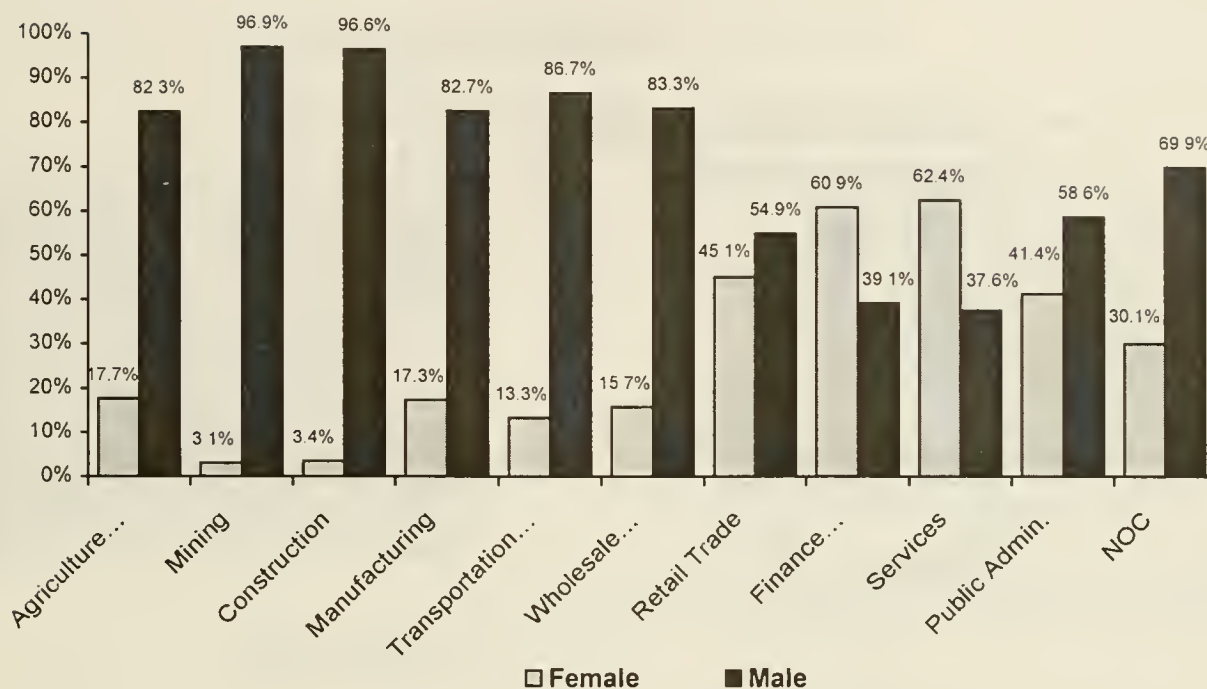
Total number of claims is 31,526. 67 claims had nonclassified Gender codes.

Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

NOC means Not Otherwise Classified.

Percent Distribution of Claims by Gender And by Standard Industrial Classification

Date of Injury - FY98



Notes:

NOC means Not Otherwise Classified

Percent Distribution of Claims¹ by Gender And by Standard Industrial Classification

Date of Injury - FY98

Standard Industrial Classification ²	Female		Male		Totals	
	Count	Percent	Count	Percent	Count	Percent*
Agriculture, Forestry & Fishing	88	17.7%	409	82.3%	497	100%
Mining	22	3.1%	682	96.9%	704	100%
Construction	87	3.4%	2,494	96.6%	2,581	100%
Manufacturing	511	17.3%	2,442	82.7%	2,953	100%
Transportation, Communication & Public Utilities	216	13.3%	1,408	86.7%	1,624	100%
Wholesale Trade	244	15.7%	1,314	83.3%	1,558	100%
Retail Trade	2,035	45.1%	2,480	54.9%	4,515	100%
Finance, Insurance & Real Estate	246	60.9%	158	39.1%	404	100%
Services	5,521	62.4%	3,322	37.6%	8,843	100%
Public Administration	1,190	41.4%	1,683	58.6%	2,873	100%
NOC SIC codes	1,479	30.1%	3,428	69.9%	4,907	100%
NOC Gender codes	0	0.0%	0	0.0%	67	100%

Notes:

* Columns may not sum 100% due to rounding.

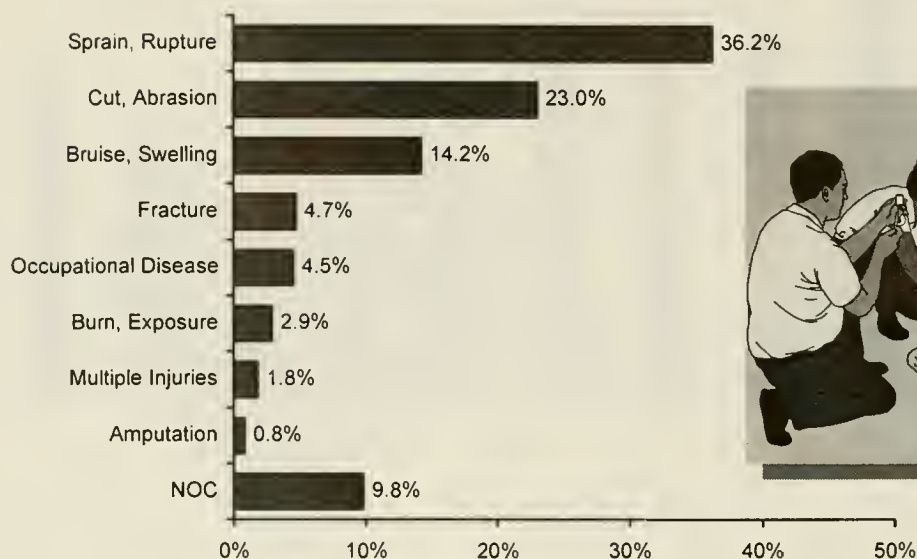
¹Total number of claims is 31,526.

²Source: Office of Management and Budget, *Standard Industrial Classification Manual 1987*.

NOC means Not Otherwise Classified.

Percent Distribution of Claims By Nature of Injury

Date of Injury -- FY98



Notes: NOC means Not Otherwise Classified.

Rank-Order Distribution By Nature of Injury

Nature of Injury ¹	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Sprain, Rupture	11,712	35.8%	12,212	36.2%	12,053	36.2%
Cut, Abrasion	7,902	24.1%	7,491	22.2%	7,240	23.0%
Bruise, Swelling	4,459	13.6%	4,822	14.3%	4,486	14.2%
Fracture	1,510	4.6%	1,523	4.5%	1,488	4.7%
Occupational Disease	1,546	4.7%	1,733	5.1%	1,424	4.5%
Burn, Exposure	1,095	3.3%	1,097	3.3%	912	2.9%
Multiple Injuries	127	0.4%	152	0.5%	564	1.8%
Amputation	70	0.2%	87	0.3%	252	0.8%
All Other Claims, NOC	4,307	13.1%	4,625	13.7%	3,107	9.8%
Total	32,728	100%*	33,742	100%*	31,526	100%*

Notes:

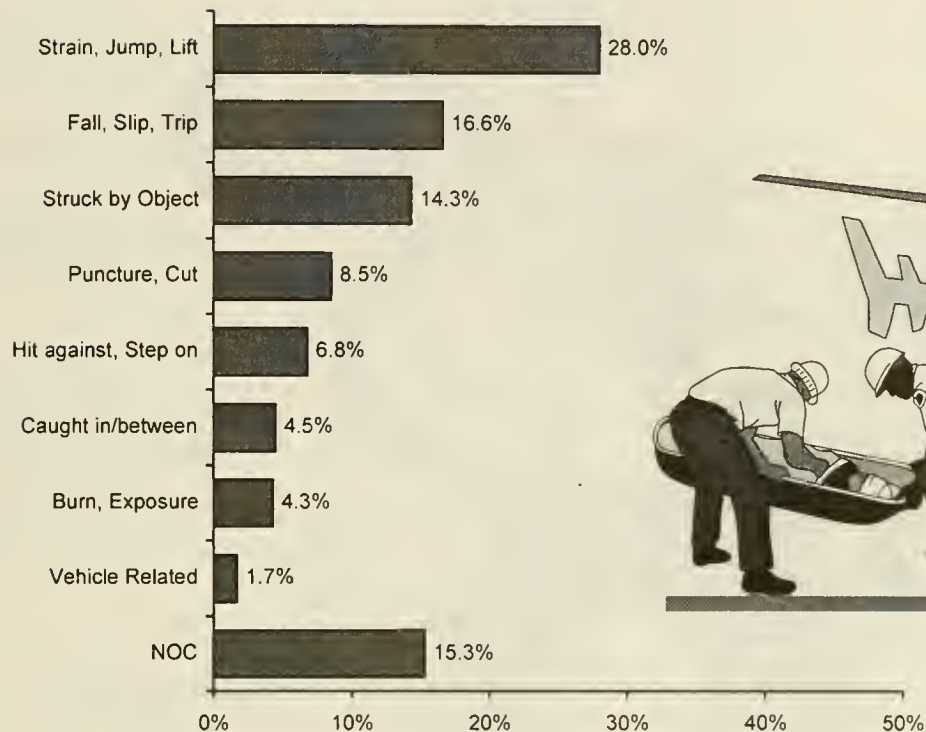
*Column may not sum to 100% due to rounding.

NOC means Not Otherwise Classified.

¹Source: National Council on Compensation Insurance - Detailed Claim Information (NCCI-DCI).

Percent Distribution of Claims By Cause of Injury

Date of Injury -- FY98



Notes: NOC means Not Otherwise Classified

Rank-Order Distribution By Cause of Injury

Cause of Injury ¹	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Strain, Jump, Lift	8,815	26.9%	8,935	26.5%	8,823	28.0%
Fall, Slip, Trip	5,510	16.8%	6,148	18.2%	5,226	16.6%
Struck by Object	4,448	13.6%	4,498	13.3%	4,517	14.3%
Puncture, Cut	1,940	5.9%	2,399	7.1%	2,665	8.5%
Hit against, Step on	2,606	8.0%	2,318	6.9%	2,153	6.8%
Caught in/between	1,326	4.1%	1,349	4.0%	1,413	4.5%
Burn, Exposure	2,267	6.9%	1,662	4.9%	1,371	4.3%
Vehicle Related	593	1.8%	537	1.6%	548	1.7%
All Other Claims, NOC	5,223	15.9%	5,896	17.5%	4,810	15.3%
Total	32,728	100%*	33,742	100%*	31,526	100%*

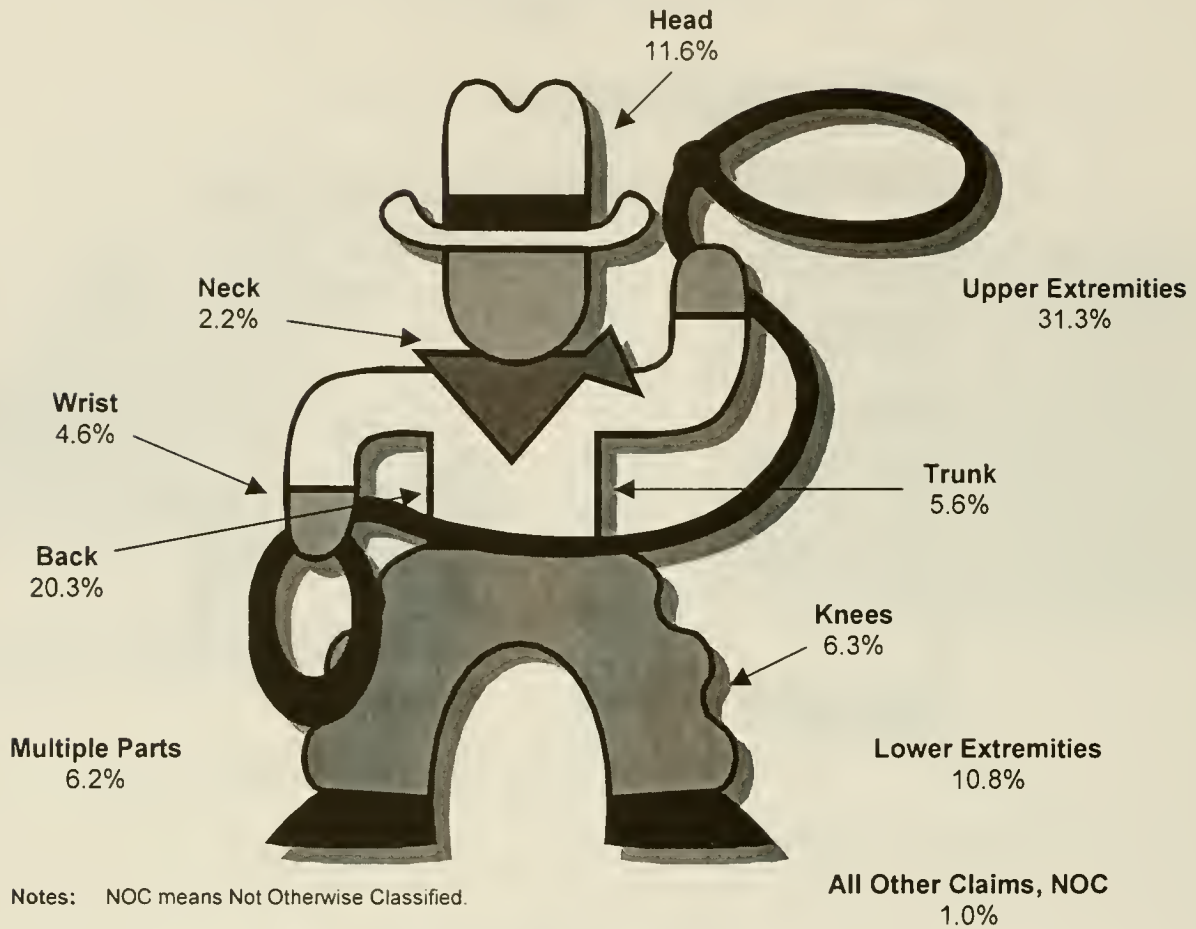
Notes:

*Column may not sum to 100% due to rounding.

NOC means Not Otherwise Classified.

¹Source: National Council on Compensation Insurance - Detailed Claim Information (NCCI-DCI).

**Percent Distribution of Claims
By Part of Body
Date of Injury - FY98**



**Rank-Order Distribution
By Part of Body**

Part of Body ¹	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Upper Extremities	9,856	30.1%	10,240	30.3%	9,877	31.3%
Back	6,274	19.2%	6,304	18.7%	6,391	20.3%
Head	3,731	11.4%	3,765	11.2%	3,666	11.6%
Lower Extremities	3,327	10.1%	3,430	10.2%	3,405	10.8%
Knees	1,937	5.9%	2,027	6.0%	1,991	6.3%
Multiple Parts	3,100	9.5%	2,770	8.2%	1,956	6.2%
Trunk	2,201	6.7%	2,125	6.3%	1,772	5.6%
Wrist	1,360	4.2%	1,489	4.4%	1,456	4.6%
Neck	524	1.6%	614	1.8%	703	2.2%
All Other Claims, NOC	418	1.3%	978	2.9%	309	1.0%
Total	32,728	100%*	33,742	100%*	31,526	100%*

Notes:

*Column may not sum to 100% due to rounding.

NOC means Not Otherwise Classified.

¹Source: National Council on Compensation Insurance - Detailed Claim Information (NCCI-DCI).

Insurer Denial of Claims

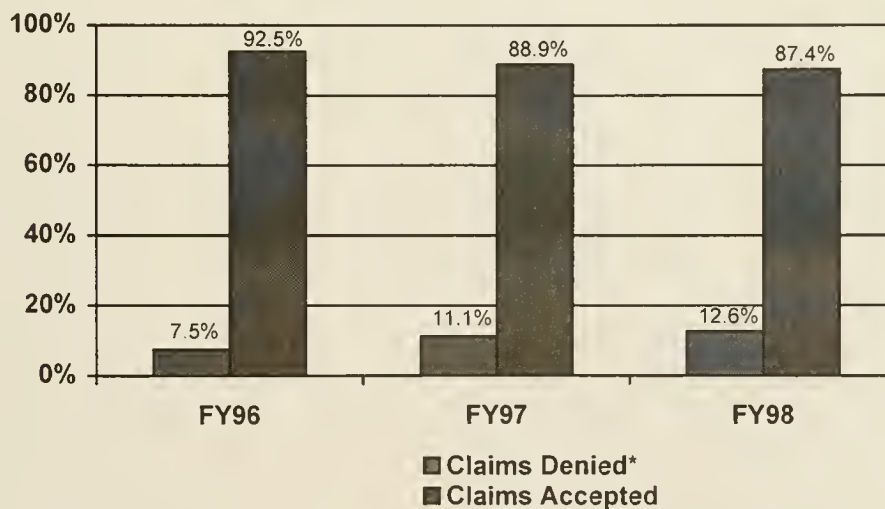
Insurer Denial of Claims By Fiscal Year

Reason for Claim Denial		FY96	FY97	FY98
Late Claim Filing	Injury	37	18	16
	Occupational Disease	7	1	1
Insufficient Information	Incomplete or missing information necessary to accept liability	65	92	11
Coverage Issue	Corporate officer rejected	12	13	15
	Elects no coverage	16	11	8
	Independent Contractor issue	2	3	1
	Question which insurer liable	36	29	14
	No coverage	26	22	62
Other	Other	164	29	272
No Employer Notice	No 30-day notice to employer or insurer	219	180	198
Not in Course & Scope	Not in course and scope of employment	253	303	243
No Objective Medical	No objective medical findings to substantiate injury	628	2,035	2,141
Definition of Injury not met	Heart attack - not caused by accident	22	23	10
	Does not meet definition of injury	670	595	417
	Does not meet definition of Occupational Disease	87	50	27
	Stress - not compensable	33	28	32

Notes:

* The initial denial may later result in an acceptance by the insurer. Statistics on accepted injuries subsequent to a denial are not available from the database.

Percent Distribution of Claims by Insurer Denials



Benefits . . .

Total Benefits

Benefit Report Data

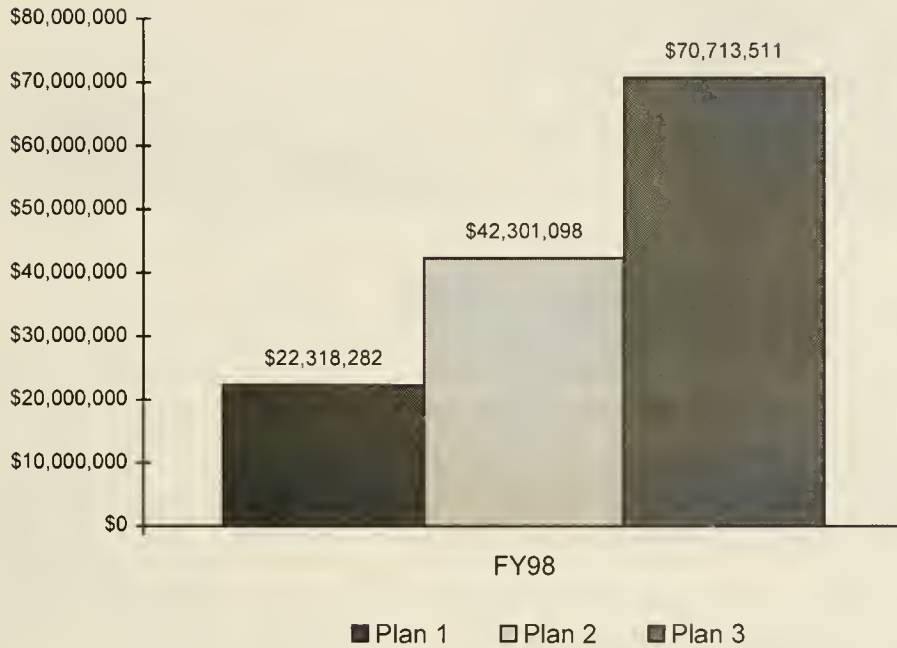
Settlement Dollars

Settlement Attorney Fees

Rehabilitation

Total Benefits

**Distribution of Benefits Paid
By Plan Type - FY98**



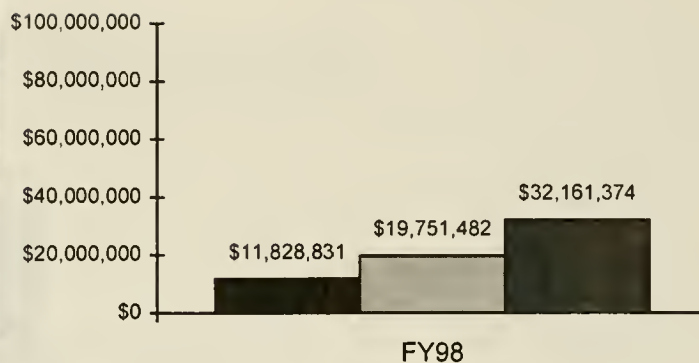
**Distribution of Benefits Paid
By Fiscal Year**

	FY96	FY97	FY98
Plan 1	\$22,044,566	\$22,198,949	\$22,318,282
Plan 2	\$33,268,989	\$35,954,463	\$42,301,098
Plan 3	\$92,775,219	\$73,036,463	\$70,713,511
Total	\$148,088,774	\$131,189,875	\$135,332,891

Note: Total benefits represent indemnity and medical.

- ◆ The benefit totals have been updated since the publication of the 1998 Annual Report Executive Summary due to the receipt of amended expenditure reports from some of the insurers.

Distribution of Medical Payments by Plan Type - FY98



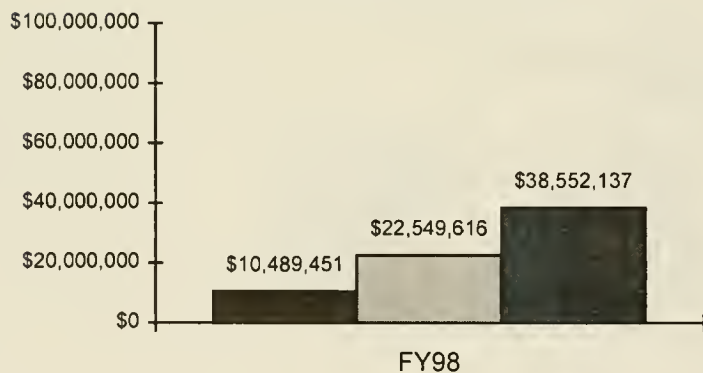
Distribution of Medical Payments

■ Plan 1 □ Plan 2 ■ Plan 3

By Fiscal Year

	FY96	FY97	FY98
Plan 1	\$9,994,676	\$10,756,156	\$11,828,831
Plan 2	\$15,995,298	\$17,063,821	\$19,751,482
Plan 3	\$36,617,000	\$29,342,000	\$32,161,374
Total	\$62,606,974	\$57,161,977	\$63,741,688

Distribution of Indemnity Payments by Plan Type - FY98



■ Plan 1 □ Plan 2 ■ Plan 3



Distribution of Indemnity Payments By Fiscal Year

	FY96	FY97	FY98
Plan 1	\$12,049,890	\$11,439,793	\$10,489,451
Plan 2	\$17,273,691	\$18,890,642	\$22,549,616
Plan 3	\$56,158,219	\$43,694,463	\$38,552,137
Total	\$85,481,800	\$74,024,898	\$71,591,204

Benefit Report Data

(For dates of injury on or after July 1, 1998)

Temporary Partial Disability (TPD)

A worker is eligible for TPD benefits when:

- prior to maximum medical improvement, the injured worker is temporarily unable to return to time of injury position; and
- they return to work in modified or alternative position; and
- they suffer a wage loss; and
- they have been released by their treating physician to return to a modified or an alternative position with the same employer.

	FY96	FY97	FY98
Average indemnity payment <i>(All Plans)</i>	\$2,150	\$1,105	\$621
Average duration of benefits paid in weeks <i>(All Plans)</i>	12	11	5
Average duration in days from injury to benefit start date <i>(Plan 1 & 2 only)</i>	146	107	75
Average duration between injury date & release/return to work <i>(Plan 1 & 2 only)</i>	219	159	90

TPD Benefits

- TPD benefits are the difference between the injured worker's actual weekly wage and the actual weekly wage earned during the injured worker's temporary partial disability.

Length of TPD Benefits

- 26 weeks (however, the insurer may extend the benefit period).

Temporary Total Disability (TTD)

A worker is eligibility for TTD benefits:

- when the injured worker misses 6 lost work shifts or 48 hours, whichever occurs first; and
- the injury results in a total loss of wages and exists until the injured worker reaches maximum medical improvement; or
- until the worker is released to employment in which the worker was engaged at the time of injury or to employment with similar physical restrictions.

	FY96	FY97	FY98
Average indemnity payment <i>(All Plans)</i>	\$8,602	\$3,279	\$1,428
Average duration of benefits paid in weeks <i>(All Plans)</i>	59	19	6
Average duration in days from injury to benefit start date <i>(Plan 1 & 2 only)</i>	88	55	42
Average duration between injury date & release/return to work <i>(Plan 1 & 2 only)</i>	192	115	86

TTD Benefits

- TTD benefits are 66 2/3% of the wages received at the time of injury, not to exceed the state's actual weekly wage at the time of injury.

Length of Benefits

- until the worker reaches maximum medical improvement or is released to return to work.

Permanent Partial Disability (PPD)

A worker is eligible for PPD benefits:

- if they suffer permanent partial disability and are no longer temporarily totally disabled or permanently totally disabled; and
- they have a physical condition that impairs the workers' ability to work after the worker reaches maximum medical improvement but is able to return to work in some capacity; and
- have a permanent impairment, greater than zero, established by objective medical finding; and
- have an actual wage loss.

	FY96	FY97	FY98
Average indemnity payment (<i>All Plans</i>)	\$11,661	\$8,076	\$4,825
Average duration of benefits paid in weeks (<i>All Plans</i>)	8	10	8
Average duration in days from injury to benefit start date (<i>Plan 1 & 2 only</i>)	434	335	248
Average duration between injury date & release/return to work (<i>Plan 1 & 2 only</i>)	214	212	133

PPD Benefits

- PPD benefits are 66 2/3% of the wages received at the time of injury, not to exceed 1/2 the state's actual weekly wage at the time of injury.

Length of Benefits

- Maximum of 350 weeks.

Permanent Total Disability (PTD)

A worker is eligible for PTD benefits:

- if they possess a physical condition, after they reach maximum medical improvement, in which they do not have a reasonable prospect of physically performing regular employment; and
- if the injured worker is no longer temporarily totally disabled and is permanently totally disabled.

	FY96	FY97	FY98
Average indemnity payment(<i>All Plans</i>)	\$18,418	\$11,084	\$0
Average duration of benefits paid in weeks (<i>All Plans</i>)	0	0	0
Average duration in days from injury to benefit start date (<i>Plan 1 & 2 only</i>)	689	0	0
Average duration between injury date & release/return to work (<i>Plan 1 & 2 only</i>)	N/A	N/A	N/A

PTD Benefits

- An injured worker may receive 66 2/3% of the wages received at the time of injury, not to exceed the state's actual weekly wage at the time of injury. The injured worker may receive a maximum of 10 cost of living increases.

Length of Benefits

- Until the injured worker receives, or is eligible to receive, full social security retirement benefits.

Settlement Dollars

A settlement is a lump sum payment of the claimant's workers' compensation benefits. Benefits are usually paid out in periodic payments that are designed to sustain an injured worker over an extended period of time. Settlements can occur when the claimant and the insurer agree that benefits will be converted to a lump sum payment. Settlements are subject to approval by the Department of Labor and Industry.

**Average Settlement Amounts
For Claims Settled in FY98**



- The above graph displays average settlement amounts for claims that were settled in Fiscal Year 1998, but have dates of injury in Fiscal Year 1998 and earlier.

**Average Settlement Amounts
For Claims Settled in FY98 - By Plan**

Injury Date	<FY88	FY89 & 90	FY91 & 92	FY93 & 94	FY95 & 96	FY97 & 98	Plan Average
Plan 1	\$30,922	\$19,500	\$33,888	\$22,412	\$16,276	\$10,630	\$16,828
Plan 2	\$24,464	\$29,844	\$23,468	\$18,489	\$16,355	\$10,608	\$14,857
Plan 3	\$36,946	\$13,542	\$19,086	\$23,357	\$17,895	\$11,024	\$16,478
NOC	\$22,741	\$25,076	\$30,612	\$18,887	\$18,658	\$11,700	\$18,890
All Plans Average	\$27,449	\$25,084	\$26,859	\$20,162	\$17,183	\$10,833	\$16,268

Notes:

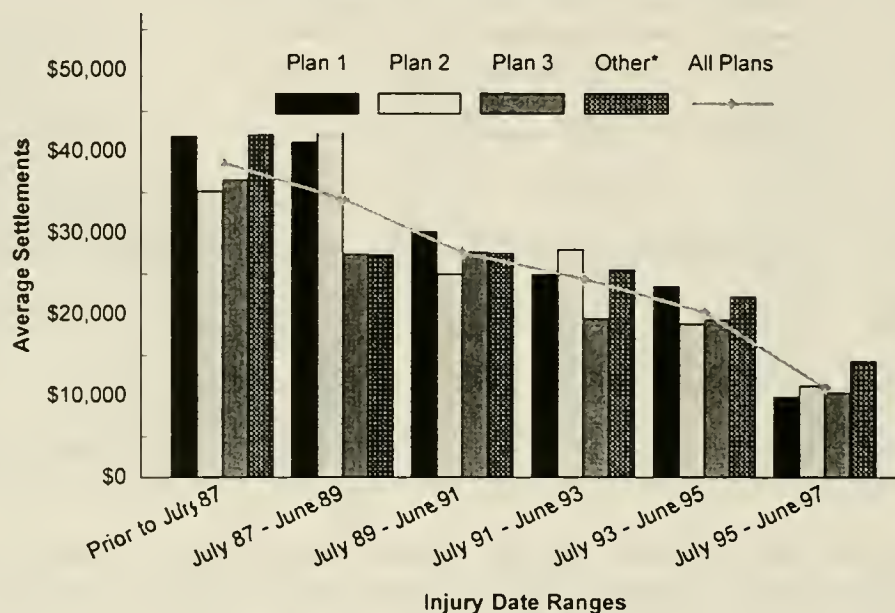
NOC means Not Otherwise Classified.

Settlement Dollars

A settlement is a lump sum payment of the claimant's workers' compensation benefits. Benefits are usually paid out in periodic payments that are designed to sustain an injured worker over an extended period of time. Settlements can occur when the

claimant and the insurer agree that benefits will be converted to a lump sum payment. Settlement petitions are submitted to the Department of Labor and Industry for approval.

**Average Settlement Amounts Settled in FY97
by Plan With Injury Date FY97 or Earlier**



* "Other" includes Uninsured Employers Fund, Subsequent Injury Fund, and settlements that had no plan reported

• Injury refers to both occupational disease and injury

- ◆ The average settlement amount for all claims settled in Fiscal Year 1997 was \$19,230, which is \$451 less than last year.

Overall Settlement Averages

	FY96	FY97
Plan 1	\$20,522	\$21,246
Plan 2	\$19,201	\$18,112
Plan 3	\$17,784	\$16,830
Other*	\$24,626	\$24,502
All Plans	\$19,681	\$19,230

Rehabilitation

The best possible outcome after an injury is for the injured worker to return to work. Sometimes a disabled worker needs help to become employable again. The expense of rehabilitation pays off when the worker becomes as productive and self-sufficient as possible.

Rehabilitation benefits can provide bi-weekly compensation. Benefits are $66 \frac{2}{3}$ of wages received at the time of the injury, not to exceed the state average weekly wage, for up to 104 weeks. A disabled worker may also receive payment for tuition, fees, books and other reasonable and necessary retraining expenses.

The worker's rehabilitation plan must be started within 78 weeks of reaching maximum medical healing, must be completed within 26 weeks of the completion date specified in the plan, and can not exceed 104 weeks. In addition, the insurer may pay auxiliary benefits up to \$4,000 for reasonable travel and relocation expenses.

Rehabilitation benefits are provided to claimants under certain circumstances. For disabled workers to qualify for these benefits, they must have a permanent impairment established by objective medical findings, resulting from a work related injury, that precludes them from returning to their time-of-injury job or a job with similar physical requirements and also have an actual wage loss; or they must have at least 15% medical impairment established by objective medical findings and no wage loss. The injured worker must have reasonable vocational goals and re-employment opportunities that will likely reduce the wage loss, and have a rehabilitation plan agreed upon with the insurer.



Industrial Accident Rehabilitation Trust Fund

For injuries occurring on or before June 30, 1997, disabled workers may be paid vocational rehabilitation expenses from funds in the industrial accident rehabilitation account. This is a state special revenue fund. Payments to the account are made each year from an assessment to each Plan 1 employer, Plan 2 insurers, and the Plan 3 (State Fund), not exceeding 1% of compensation paid to injured employees in Montana during the preceding fiscal year.

The administration of the fund moved from the Department of Public Health and Human Service to the Department of Labor and Industry on July 1, 1997. The fund is currently providing rehabilitation services to 109 injured employees.

Rehabilitation Trust Fund Use

Plan Type	FY98
Plan 1	\$23,839
Plan 2	\$28,439
Plan 3	\$122,347
Total	\$174,625

- Plan 1 currently has 2 clients in rehab; Plan 2 has 23 clients; and Plan 3 has 84 clients.

Dispute Resolution . . .

Occupational Disease Panel

Mediation

Contested Case Hearings

Workers' Compensation Court

Occupational Disease Panel

The Claims Unit of the Employment Relations Division (ERD) is responsible for the occupational disease (OD) panel process. The panel process is designed to resolve questions between a claimant and insurer as to whether the claimant's condition is a result of the employment. Diagnosing an OD and assigning a cause can be difficult. This process involves a panel of up to three doctors who provide opinions. Based on the doctors' opinions, ERD then issues a determination. The determination states whether the claimant's condition is caused from employment and if, therefore, the claimant is entitled to occupational disease benefits. Average processing time for the OD panel was 100 days during FY98. This average includes second and third requests and mandatory waiting periods.

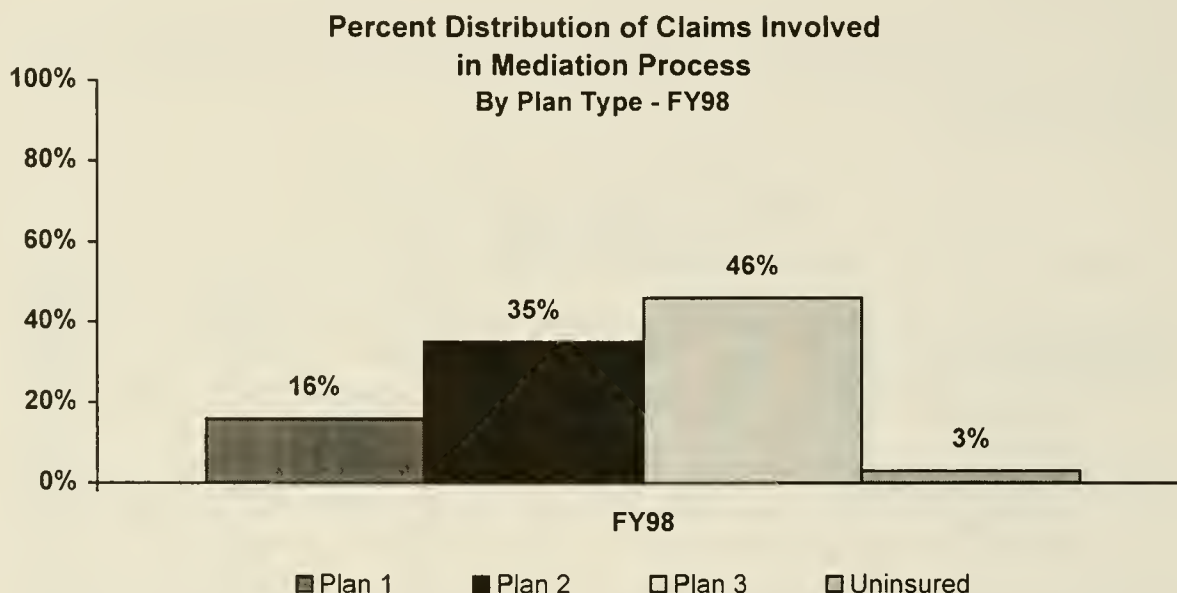
Disputes over the determination are appealed to the Hearings Unit of the Department of Labor and Industry.

Occupational Disease Panel By Fiscal Year

	FY96	FY97	FY98
Panel Requests:	402	431	436
Appealed after First Exam:	41	52	51
by Claimant	7	8	1
by Insurer	34	44	50
Second Exam Requested:	31	26	25
by Claimant	8	4	1
by Insurer	23	22	24
Cases Appealed to the Hearing Unit:	68	61	66
Cases Appealed to WCC:	7	7	
Panel results:			
Claims Accepted	224	245	230
Claims Denied	83	92	92
Canceled, Withdrawn or Dismissed	78	65	94
Cases Closed:	385	402	416

Mediation

The Workers' Compensation Mediation Unit of the Employment Relations Division provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and accepted occupational disease claims. The mediation process is confidential, non-binding, and informal. The mediator facilitates the exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are either held in person in Helena or by telephone conference call. Often, more than one conference is held in order to resolve the disputes on a claim. In Fiscal Year 1998, the Mediation Unit received and processed 913 petitions.



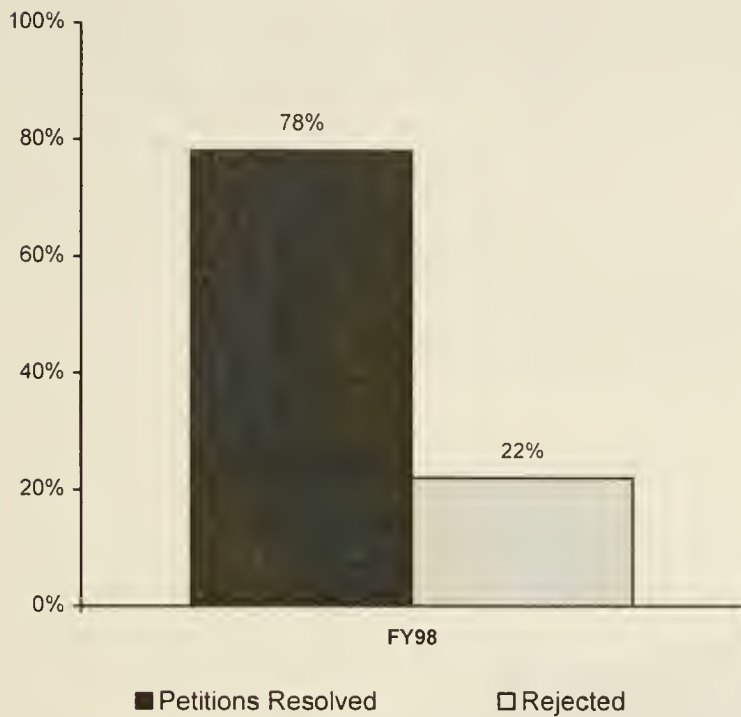
**Percent Distribution of Claims Involved
in Mediation Process
By Plan & Fiscal Year**

	FY96	FY97	FY98
	Percent	Percent	Percent
Plan 1	14%	13%	16%
Plan 2	31%	34%	35%
Plan 3	53%	50%	46%
Uninsured	2%	3%	3%
Total Percent	100%	100%	100%
Total Count	858	857	913

Notes:

Petitions may represent multiple claims and multiple plans.

**Percent Distribution of Petitions Resolved
in FY98**



- Mediation has an approximate resolution rate of 78%.
- Mediation took an average of 33 days to complete a case for which a conference was held and a written recommendation issued.

**Distribution of Petitions Received
By Fiscal Year**

	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Petitions Resolved	679	80%	664	79%	581	78%
Recommendation Rejected	174	20%	179	21%	161	22%
Total Petitions Resolved	853	100%	843	100%	742	100%
Resolved/Rejected	853	99%	843	88%	742	81%
Petitions Pending*	5	1%*	14	2%	171	19%
Total Petitions Received	858	100%	857	100%	913	100%

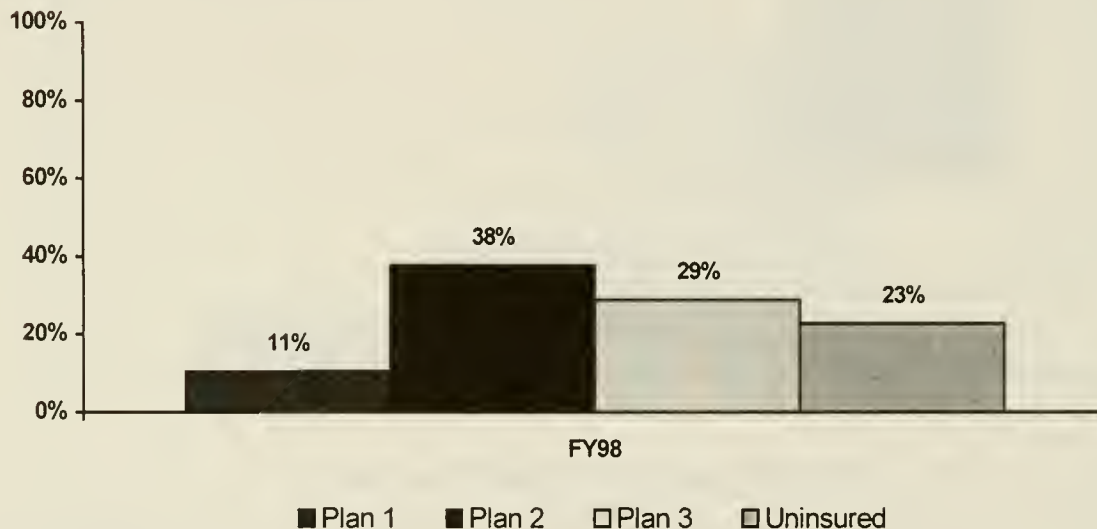
Notes:

*Eventual outcome of pending petitions will affect percent resolved.

Contested Case Hearings

The Department of Labor and Industry's Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, and medical disputes between providers and insurers when payments to the claimant are not an issue. For Fiscal Year 1998 (FY98) the Hearings Unit received 114 requests for contested case hearings. Ninety hearing cases were held in FY98. Seventy-one petitions had been closed or settled as of 6/30/98.

**Percent Distribution of Petitions Received
By Plan Type - FY98**



**Distribution of Petitions Received
By Plan Type**

	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Plan 1	12	10%	10	8%	12	11%
Plan 2	28	22%	32	27%	43	38%
Plan 3	57	46%	48	40%	33	29%
Uninsured	28	22%	30	25%	26	23%
Underinsured*	1	0%	1	0%	NA	NA
Total	126	100%	121	100%	114	100%

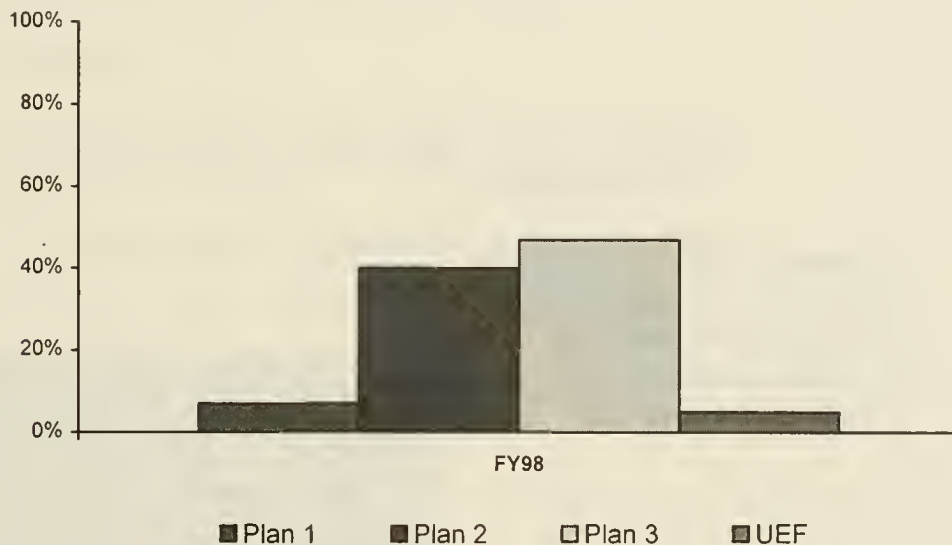
Notes:

*Underinsured was repealed in 1997.

Workers' Compensation Court

The Workers' Compensation Court resolves disputes between insurers/employers and injured workers, and for workers disabled as a result of an occupational disease. The Court has original jurisdiction over benefit issues under the Workers' Compensation Act and the Occupational Disease Act. For an injury occurring after July 1, 1987, the controversy must first be mediated. In cases of original jurisdiction the Court holds a trial. The Court has appellate jurisdiction over decisions of the Department of Labor and Industry involving other workers' compensation and occupational disease controversies. Additionally, the Court conducts judicial review over decisions of the Classification and Review Committee (Commissioner of Insurance) regarding classification of employees.

**Percent Distribution of Petitions Received
by Plan Type - FY98**



Notes:

Subsequent Injury Fund received 1 petition in FY98.

**Distribution of Petitions Received
By Plan Type**

Plan Type	FY96		FY97		FY98	
	Count	Percent	Count	Percent	Count	Percent
Plan 1	23	10%	20*	10%	18*	7%
Plan 2	102	45%	92*	44%	98*	40%
Plan 3	98	43%	89*	43%	116*	47%
SIF ¹	1	0%**	0	-	1	0%**
UEF ²	4	2%	6*	3%	13*	5%
Total by Plan	228	100%	207*	100%	246*	100%
Total Cases	228	100%	202	100%	235	100%

Notes:

*Petitions involving more than one plan account for the higher totals.

** Less than one percent.

¹SIF means Subsequent Injury Fund.

²UEF means Uninsured Employer Fund.

**Distribution of Decisions
By Fiscal Year**

	FY96	FY97	FY98
Bench Rulings w/out written decisions	2	1	2
Decisions	61	52	45
Orders on Appeal	15	5	9
Substantive Orders	38	40	52
Attorney Fee Orders	9	6	3
Orders on Cost	11	9	8
Disposed of by Telephonic Conference	--	6	6
Subtotals	136	119	125
Petitions Dismissed by Agreement	157	135	155
Totals	293	254	280

1998 Facts

- ◆ Number of petitions received: 235
- ◆ Number of appeals from department orders: 11
- ◆ 155 petitions dismissed
- ◆ 61 trials held in FY98
- ◆ Decisions totaled 125



Department Administered Programs . . .

Organizational Charts

Regulatory Cost

Subsequent Injury Fund

Uninsured Employers' Fund

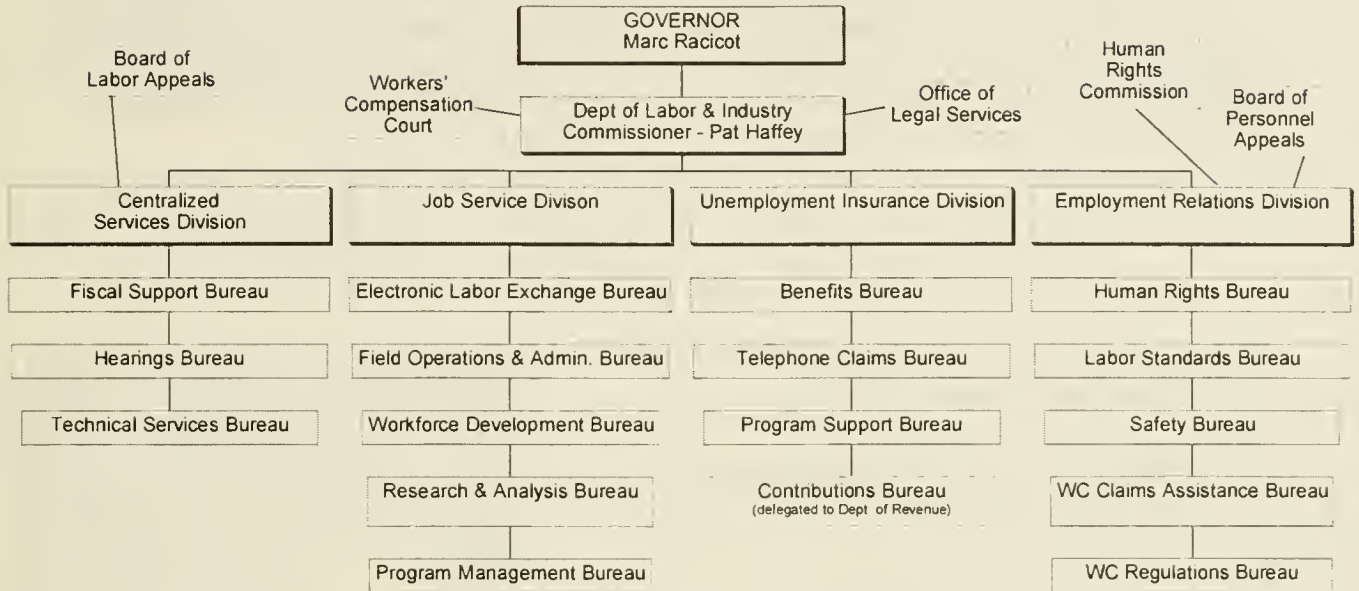
Safety

Independent Contractor Exemptions

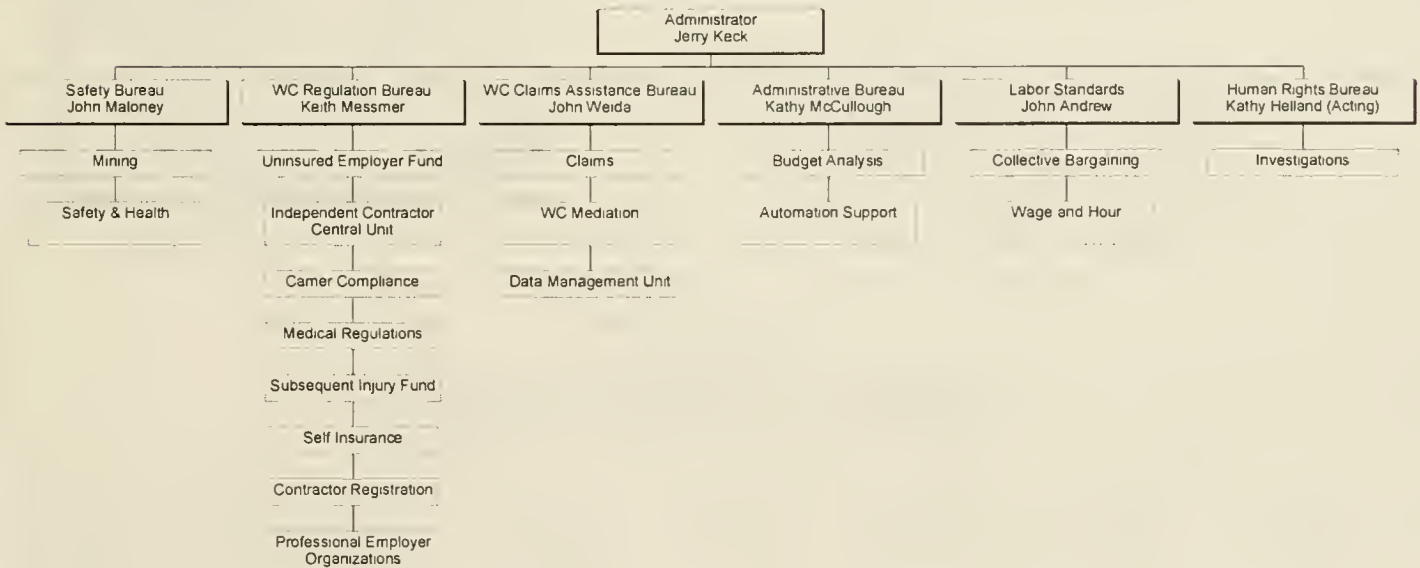
Professional Employer Organizations

Organizational Charts

Montana Department of Labor & Industry



Employment Relations Division Montana Department of Labor & Industry Phone # (406) 444-6531 Fax # (406) 444-4140



Regulatory Cost

The cost of administering the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 (self insurers), Plan 2 (private insurance carriers) and Plan 3 (State Fund) through FY99. The assessment is calculated on an equitable basis, using proper accounting and cost allocation procedures, to accurately derive an assessment rate. Beginning with the FY2000, each insurer will be assessed 3% of benefits paid.

Regulatory functions performed by the Department of Labor & Industry

- Legal functions of the Workers' Compensation Court, Hearings and Legal Bureaus
- Administration of the Employment Relations Division, including the Workers' Compensation Database
- Claims management, data analysis, rehabilitation panels, mediation, and administration functions of the Claims Assistance Bureau
- Medical regulation, self-insurance, carrier compliance, and administration functions of the Regulation Bureau
- Occupational safety statistics, mandatory inspections, on-site consultation match, mining inspection, mine training match, and safety culture functions of the Safety Bureau



Regulatory Cost By Fiscal Year

FY96	FY97	FY98
\$3,623,108	\$3,429,653	\$3,816,458

Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of SIF is to assist individuals with impairments to obtain employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Montana workers' compensation insurers.

The law defines "person with a disability" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The Subsequent Injury program reduces the liability of the employer by placing a limit on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation Act.

There were 193 new SIF certifications during fiscal year 1998. There are a total of 2,330 SIF certified employees in the state of Montana.

The assessment is based on a percentage of the compensation and medical benefits paid in Montana by each plan in the preceding calendar year. The rate is set by the Employment Relations Division based on the total amount of paid losses reimbursed by the fund in the preceding calendar year and the expenses of administration less other income.

Subsequent Injury Fund Claims

By Plan - FY98

	Plan 1	Plan 2	Plan 3	Total
New Claims Filed	1	5	1	7
Number of Open Claims	29	10	17	56
Reserved Amount*	\$500,466	\$330,067	\$186,894	\$1,017,427

Notes:

*Reserved amount is the dollar amount set aside to pay the expected future cost of the claims.

SIF Payments and Dollars Assessed

By Fiscal Years

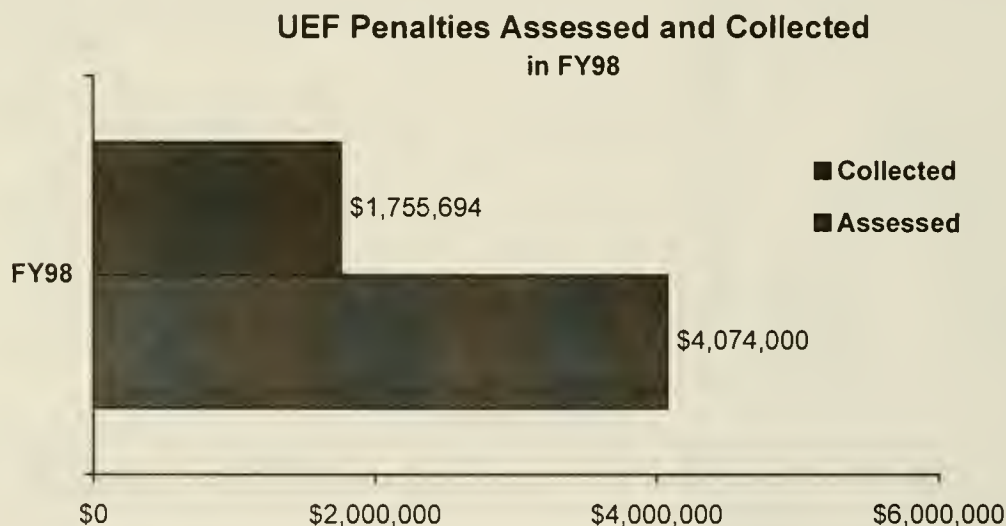
	FY96		FY97		FY98	
	Payments	Assessment	Payments	Assessment	Payments	Assessment
Plan 1	\$202,663	\$92,621	\$162,380	\$85,481	\$49,938	\$6,134
Plan 2	\$12,979	\$118,988	\$36,116	\$121,710	\$74,675	\$11,425
Plan 3	\$134,836	\$437,795	\$71,190	\$395,185	\$112,575	\$20,399
Total	\$350,477	\$649,404	\$269,686	\$602,376	\$237,188	\$37,958

Uninsured Employers Fund

The role of the Uninsured Employers' Fund (UEF) of the Employment Relations Division is to ensure employers comply with required workers' compensation laws so employees are properly covered by insurance. If employers are without appropriate workers' compensation insurance, the UEF provides benefits for their injured employees and pursues reimbursement from the uninsured employer.

The UEF Unit also levies and collects penalties for the time the employer was uninsured. The department may require the uninsured employer to pay a penalty to the fund:

- up to double the insurance premium that would have been paid by the employer or
- \$200, whichever is greater.

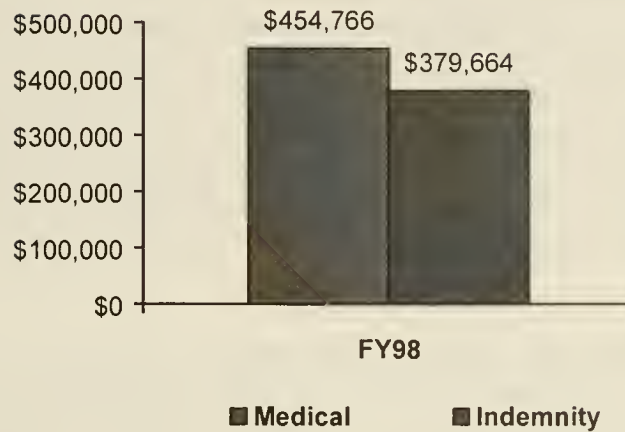


- Of the over \$4,074,000 in penalties assessed by the Uninsured Employer Fund unit against uninsured employers in FY98, approximately \$1,755,694 were collected.

**UEF Penalties Assessed and Collected
By Fiscal Year**

	FY96	FY97	FY98
Collected	\$1,014,938	\$1,606,177	\$1,755,694
Assessed	\$3,399,409	\$6,730,598	\$4,074,000

UEF Indemnity and Medical Payments FY98



UEF Indemnity and Medical Payment By Fiscal Year

	FY96	FY97	FY98
Medical	\$255,422	\$254,090	\$454,766
Indemnity	\$286,405	\$323,806	\$379,664
Total	\$541,826	\$577,896	\$834,430

- As of June 30, 1998, 101 claims were filed by employees who were injured in FY98 and whose employers were uninsured.



Safety

The Safety Bureau is responsible for administering the state's occupational safety and health laws. This involves mandatory workplace safety inspections in public sector workplaces (city, county, state governments and schools), coal mines and sand and gravel operations. The Bureau's goal is to prevent employee illnesses and injuries by enforcing the intent of the various safety statutes and to support federally funded Occupational Safety and Health Administration (OSHA) voluntary programs in the private sector. The ultimate goal of all activities of the Safety Bureau is to reduce worker injuries and illnesses and lower workers' compensation premiums. Non-mining private sector employers are covered by federal OSHA with regard to inspection activities.

The Safety Bureau inspects public workplaces and issues orders for correction of hazards to provide a safe work environment. Federal OSHA preempts inspecting private places of business. Safety and health consultations are available to private employers upon request, thanks to a grant from OSHA.

Mining inspections are conducted on surface and underground coal mines and sand and gravel operations. These mines are required to comply with safety and health standards contained in the mine safety statutes.

The Federal Mines Safety and Health Administration (MSHA) has provided the Safety Bureau with a training grant to conduct safety training for employers and employees of small mines. Mine operators are assisted in developing acceptable training plans so that their employees recognize hazardous conditions in a mining operation.

The Safety Culture Act, passed in the 1993 legislative session, is designed to foster safe work practices, beginning with the students in Montana's schools and progressing through to employers. Potential employees are taught as early as middle school the effect unsafe work practices can have on their lives and their workers' compensation insurance premiums.

All employers in Montana are now required to implement an education-based safety program. Employers with more than five employees are required to have active safety committees.



Safety Bureau Activities - FY98

Safety and Health Section	Employer Sector					
	Public			Private		
	FY96	FY97	FY98	FY96	FY97	FY98
Mandatory Inspections Performed	241	253	169	--	--	--
On-site Inspection Performed	--	--	--	106	109	175
Requests for Technical Assistance	179	307	280	202	291	409
Formal Training Sessions Conducted	23	60	54	28	42	44
Workers Trained	618	1,676	1,797	660	991	1,236

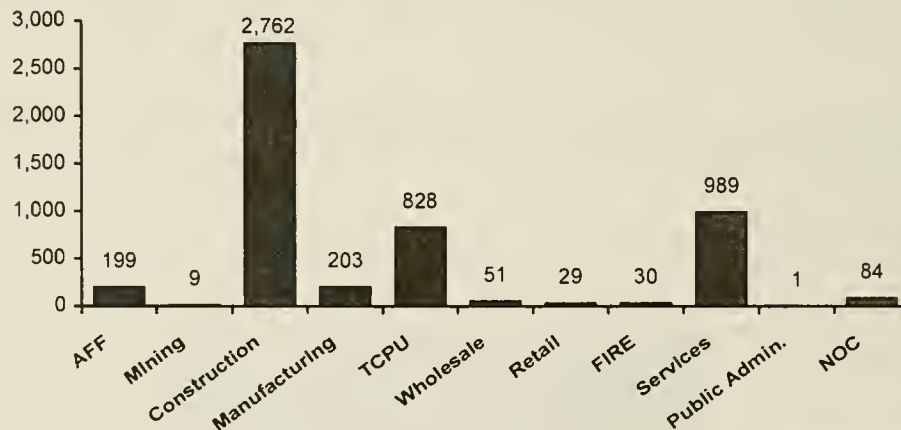
Mining Section	Coal			Metal/Nonmetal		
	FY96	FY97	FY98	FY96	FY97	FY98
Inspections Performed	57	88	79	196	212	192
Mine Training Sessions Conducted	12	9	22	85	96	83
Workers Trained	372	225	705	980	1,134	1,144
Coal Mine Foreman Training Sessions Conducted	5	7	10	--	--	--
Coal Mine Foreman Trained	66	47	82	--	--	--



Independent Contractor Exemptions

Independent contractors (IC) are individuals who offer their services in an occupation in which they are free of control and they have their own established business. These individuals can carry workers' compensation coverage on themselves or they can obtain an independent contractor exemption. By obtaining the exemption, the individual is waiving their rights to workers' compensation and unemployment insurance benefits. The Employment Relations Division may ask for information or perform random verifications to assure the exemptions are issued correctly. Exemptions were first enacted by the 1983 legislature.

**Distribution of Independent Contractor Exemptions
By Standard Industrial Classification¹ - Issued in FY98**



Notes:

AFF = Agriculture, Forestry & Fishing

TCPU = Transportation, Communication & Public Utilities

FIRE = Finance, Insurance & Real Estate

* Refer to Industry Division under Methodology in the appendix for an explanation.

NOC means Not Otherwise Classified

- As of June 30, 1998, there were 14,796 active independent contractor exemptions.
- There were 5,185 new exemptions issued during FY98 and 4,838 renewals issued.
- Construction accounted for approximately 53% of all new exemptions. The service industry had the second largest number of exemptions, 19%.



**Distribution of Independent Contractor Exemptions
By Fiscal Year**

	FY96	FY97	FY98
Active IC Exemptions	15,391	14,290	14,796

Professional Employer Organizations

Professional Employer Organizations (PEOs) are required to be licensed by the Department of Labor and Industry prior to supplying workers to client companies. In general, PEOs contract with client companies to provide workers and other payroll-related services, relieving the client from the administrative paperwork associated with employing workers. Since the law's inception in July 1, 1995, the Department has licensed 15 PEOs who have contracted with 295 clients. An additional 15 applications are being processed. In order to become licensed, PEOs must submit an application and include proof of workers' compensation coverage for all workers supplied to client locations.



Appendices . . .

Definitions

Methodology

Data Sources

Future Annual Reports

Supplemental Reference

Definitions

Calendar Year: The year beginning January 1st, and ending December 31st.

Cause Code: The code used to describe what caused the injury or occupational disease. The NCCI-DCI codes for cause are divided into nine categories. The ninth category, "All Other Claims, NOC (Not Otherwise Classified)", was created to account for the records that did not have a cause code entered.

Burn or Exposure: Includes hot or cold objects, chemical, fire, welding, scalds, temperature exposure, and radiation.

Caught in or Between: Includes caught in or between machinery, an object being handled, and miscellaneous objects such as earth slides or collapsing buildings.

Puncture or Cut: Includes punctures, cuts, or scrapes as a result of broken glass, hand tools, utensils, power tools, appliances, or guns.

Fall, Slip, Trip: Includes falling from a different level or on the same level, ladder or scaffolding falls, slipping on liquid or grease, ice or snow slips and falls into openings.

Vehicle Related: Includes collisions with another vehicle or fixed object, rollovers, rough riding, and airplane, water vehicle or rail vehicle crashes.

Strain, Jump or Lift: Includes jumping, twisting, holding or carrying objects, lifting, pushing, pulling, reaching, overexertion, and throwing.

Hit Against or Step on Object: Includes moving machine parts, objects being lifted, sanding, or scraping operations, stationary objects, and stepping on sharp objects.

Struck by Object: Includes falling or flying objects, hand tools or machines in use, co-workers, or patients, motor vehicles, moving machine parts and objects handled by others.

All Other Claims, NOC: Includes animal and insect bites, explosions, foreign body in eye, injury or stress from an assault, and causes that occur over a period of time.

Absorption, injection or inhalation not otherwise classified; includes all records where cause was not reported on the First Report of Injury or where the code could not be converted to NCCI-DCI codes.

Employment Relations Division (ERD): The State of Montana's regulatory agency for workers' compensation. This division is part of the Department of Labor and Industry.

Fiscal Year: The State of Montana's fiscal year, beginning July 1, and ending June 30 of the following year.

First Report of Injury (FROI): The initial report designed to notify parties of the occurrence of an injury or illness; contains basic claim information regarding the who, what and how of an occupational injury or illness.

Indemnity Payments: Payments made by the insurer to the injured worker to compensate for the loss of wages resulting from an injury or occupational disease.

International Association of Industrial Accident Boards and Commissions (IAIABC): An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, and rehabilitation and safety experts. The organization provides access to information on current and developing workers' compensation issues and standards.

Nature Code: The code used to describe the nature of the injury or occupational disease. The NCCI-DCI codes for nature are divided into eight categories. A ninth category "All Other Claims, NOC", was created to account for the records that did not have a nature code entered.

Sprain or Rupture: Includes strains, dislocations, hernias, organ ruptures, and trauma to joints or muscles.

Bruise or Swelling: Includes contusions, broken blood vessels, and inflammation.

Cut or Abrasion: Includes slivers, lodged small objects, open wounds, scrapes, and needle sticks.

Fracture: Includes any breaking of a bone.

Occupational Disease: Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel, and any disease resulting from work related experiences.

Amputation: Includes loss of a limb that involves bone, loss of part of an organ, enucleation, or severance of a body part.

Burn or Exposure: Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke, and lightning.

Multiple Injuries

All Other Claims, NOC: Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries; includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to NCCI-DCI codes.

National Council on Compensation Insurance - Detailed Claim Information Codes (NCCI-DCI): A standard coding structure for Cause, Nature, and Part of Body established by compensation insurers and used by Montana. The use of a standard coding structure facilitates comparison of Montana's workers' compensation data with other states' data.

Other Benefits Code: The code used to describe the other benefits paid to date or recovered for an injury or occupational disease. The following are NCCI-DCI code definitions:

Funeral Expenses Paid to Date: The amount paid for the funeral of the deceased employee.

Insurer Legal Expense Paid to Date: The amount paid by the insurer for the services of an attorney or authorized representative to defend against a proceeding brought under the Workers' Compensation Law.

Claimant Legal Expense Paid to Date: The amount specified in the award or paid without an award by the employer or insurer for the fee of the claimant's attorney or authorized representative.

Total Payments to Physicians: The amount paid to date to treating physician(s), including all clinic and office visits.

Hospital Costs Paid to Date: The paid to date costs of both inpatient and outpatient services which the injured employee received because of the work related injury.

Other Medical Paid to Date: All other paid to date medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

Vocational Rehabilitation Evaluation Expense Paid to Date: The amount paid to date expenses for testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement.

Vocational Rehabilitation Education Paid to Date: The paid to date training costs including tuition, books, tools, transportation and additional living expenses.

Other Vocational Rehabilitation Education Paid to Date: The amount paid for any other phases of the vocational rehabilitation program not reported in the other benefit types.

Vocational Rehabilitation Maintenance Benefit Paid to Date: The amount paid to date as a maintenance benefit while the claimant is participating in a vocational rehabilitation program.

Consultant/Expert Witness Fees Paid to Date by Insurer: The amount paid by the insurer in a legal proceeding for expert testimony or opinion.

Employer's Deductibles Recovery: Sum of monies recovered through Insured reimbursement of deductible amounts for a claim.

Subrogation Recovery: Sum of monies recovered through subrogation for a claim.

Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for a claim.

Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for a claim.

Part of Body Code: The code used to describe what caused the injury or occupational disease. The NCCI-DCI codes for part of body are divided into nine categories. A tenth category was reported as "All Other Claims, NOC", was created to account for the records that did not have a part of body code entered.

Head

Neck

Upper Extremity: Includes shoulder, elbow, upper arm, lower arm, hand, fingers and thumb; does not include hand and wrist or just wrist injuries.

Wrist: Includes hand and wrist or just wrist injuries.

Trunk: Includes chest, ribs, sternum, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, buttocks and abdomen; does not include the upper or lower back, disc or lumbar and sacral vertebrae.

Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

Lower Extremity: Includes hip, upper leg, lower leg, ankle, foot and toe.

Knee

Multiple Parts: Includes multiple body parts or body systems.

All Other Claims, NOC: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to NCCI-DCI codes.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm, which results from a work accident on a single day or during a single work shift.

Occupational Disease (OD): Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion, or overuse syndrome.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer.

There are three different types of insurance plans:

Plan 1: Self insurance provided by employers who have sufficient financial strength to cover potential workers' compensation claims. If an injury occurs, a self-insured employer will pay the expenses and benefits.

Plan 2: Insurance coverage provided by a private insurance company.

Plan 3: Insurance coverage provided by the State Compensation Insurance Fund (State Fund).

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry. The codes are published by the Federal Office of Management and Budget and can be found in the 1987 Standard Industrial Classification Manual. The codes are grouped into ten different industrial divisions, as listed below with examples of each division.

Agriculture, Forestry & Fishing (AFF): Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping, and related services.

Mining: Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered: building construction by general contractors, heavy construction other than building by general contractors, and construction activity by other special trade contractors.

Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins, or liquors.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public, or to other business enterprises, passenger and freight transportation, communications services, or electricity, gas, steam, water, or sanitary services, and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm, construction contractors, or professional business users, or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate. Establishments primarily engaged in the construction of buildings for sale are classified in Construction.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business,

repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Subsequent Report: A form which gathers information at specific intervals about the date benefit payments begin, paid amounts by benefit type, and case progress information.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, prior to achieving maximum medical improvement, that causes a partial loss of wages.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement, that causes a total loss of wages.

Methodology

Occupational Disease and Injury Data

All injury data included in this report are gathered from the First Report of Injury. The form is completed and submitted to the Employment Relations Division (ERD) by employees, employers, or insurers. The form includes only six mandatory fields. Non-mandatory fields such as gender, birth date, and hire date were often left blank. Limiting the number of mandatory fields was the balance achieved to ensure the value of the information was commensurate with the cost of collection. Because this report uses non-mandatory data, the term "unknown" frequently appears as a category. Subcategories shown in the various tables may not add up to the total number of records because inaccurate or missing data were omitted.

This report includes all injuries reported to ERD. However, all injuries occurring in Montana may not have been reported.

ERD accesses State Fund injury data electronically. Currently the data received from State Fund contain several "unknown" fields because State Fund is either not yet completing these fields or the current data interchange does not process these fields.

Year to Year Comparisons

Whenever possible the data is presented with a comparison between FY96, FY97, and FY98.

Subsequent Report Data

Plans 1, 2 and UEF only:

All payment and duration data included in the Subsequent Report sections of this report are gathered from the Subsequent Report or settlement petitions approved by ERD. The Subsequent Report form is completed for each individual indemnity claim and submitted to the Employment Relations Division (ERD) by adjusters or insurers. The form includes 38 fields such as claimant identification information, status of the claim, type of benefits paid, benefit payment amounts and duration of benefits.

State Fund only:

All payment and duration data included in the Subsequent Report section of this report were gathered from a special report prepared by the State Fund. ERD requested from the State Fund the same information available from the database for Plans 1, 2 and UEF. The information provided from the State Fund was received on an aggregate basis rather than an individual claim basis. The State Fund was not reporting the information on an individual claim basis. The State Fund is expected to report individual claim data electronically in the near future.

All insurers:

The information received from the subsequent report and settlement petitions was combined. The payment and duration information contained in this report represents the average reported on indemnity claims only. Payments made on medical only claims are not included in the averages. To allow for comparison, whenever possible the information is grouped by type of disability, type of benefit payment, and date of injury or occupational disease.

The data includes information reported to ERD on injury and occupational disease claims closed or settled in FY98. Subsequent reports may not have been submitted to ERD for all indemnity claims.

Because this is the first year Montana workers' compensation subsequent report data has been collected in the new database, and the data presented represents only closed and settled claims from one fiscal year, no historical information is available to identify trends, cost drivers, or changes in the workers' compensation system.

Industry Divisions

To allow for comparison, whenever possible the information is grouped by industry division. Standard Industrial Classification (SIC) Codes are used for this purpose. The SIC information is not reported to ERD and was obtained from other resources. Receiving this data from outside resources was unreliable at times. Consequently, the SIC Codes are missing in several places and are marked as "NOC - Not Otherwise Classified" on the graphs.

Data Sources

Workers' Compensation Database

The database system was built at the request of the legislature to provide management information. Employers, insurers, attorneys, medical providers, and other parties of the workers' compensation community in Montana provide data for the system.

Hearings Bureau

The Department of Labor and Industry, Hearings Bureau provided contested Case Hearings data.

Workers' Compensation Court

Workers' Compensation Court data were provided by the Court which is administratively attached to the Department of Labor and Industry.

Department of Labor and Industry, Workers' Compensation Regulation Bureau

The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, Professional Employer Organizations (PEOs), Indemnity and Medical Benefits, Subsequent Injury Fund, and Managed Care Organizations (MCOs).

Department of Labor and Industry, Mediation Unit

Mediation section data were provided by the Mediation Unit of the Employment Relations Division from the unit's database.

Department of Labor and Industry, Safety Bureau

Safety section data were provided by the Safety Bureau of the Employment Relations Division from the unit's database.

State Fund

The data for the Subsequent Report section of this report related to Plan 3 claims were provided by the State Fund.

Administrative Assessment Report

Cost of regulatory functions data were provided by ERD's Administrative Assessment Reports beginning with fiscal year 1996 through fiscal year 1998.

Future Annual Report

In the coming years, the Montana Workers' Compensation Annual Report from the Department of Labor and Industry will continue to expand and will begin to yield the kind of data decision-makers will need to effectively manage the workers' compensation system.

As more and more states begin the process of compiling their own data using International Association of Industrial Accident Boards and Commissions (IAIABC) standards, the Employment Relations Division will begin comparing the performance of Montana's system with that of neighboring states and across the nation.

To request additional copies of this annual report, please contact:

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Supplemental Reference

A supplement is available from the Department of Labor & Industry. Settlement Attorney Fees for Fiscal Year 1998 provides detailed settlement attorney fee data. To request a copy of this supplement, contact:

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